

Transcript of the Testimony of

Joshua Cockrell

December 4, 2023

Raymond Thompson v. Joshua Cockrell, et al

Field Reporting Services

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| <p style="text-align: center;">1</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION</p> <p>-----</p> <p>RAYMOND THOMPSON,)) Plaintiff,)) v.)Cause No.: 4:23-cv-133-SRW) JOSHUA COCKRELL, et al,)) Defendant.)) -----</p> <p style="text-align: center;">DEPOSITION OF JOSHUA COCKRELL TAKEN ON BEHALF OF THE PLAINTIFF DECEMBER 4, 2023</p> <p style="text-align: center;">SHEILA FIELD, CCR. No. 1226</p> <p>-----</p> <p style="text-align: center;">Field Reporting Services PO Box 252092 St. Louis, Missouri 63125 314-461-2122</p> | <p style="text-align: right;">2</p> <p style="text-align: center;">I N D E X</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">2 QUESTIONS BY:</td><td style="text-align: right;">PAGE</td></tr> <tr> <td>3 Mr. Gelfand</td><td style="text-align: right;">5, 126, 134</td></tr> <tr> <td>4 Ms. Robertson</td><td style="text-align: right;">120, 133</td></tr> <tr> <td>5</td><td></td></tr> <tr> <td>6</td><td></td></tr> <tr> <td>7</td><td style="text-align: center;">E X H I B I T S</td></tr> <tr> <td>8 EXHIBIT</td><td style="text-align: right;">PAGE:</td></tr> <tr> <td>9 1</td><td style="text-align: right;">Interrogatory Answers 39</td></tr> <tr> <td>10 2</td><td style="text-align: right;">General Order No. 441 45</td></tr> <tr> <td>11 3</td><td style="text-align: right;">General Order No. 456 62</td></tr> <tr> <td>12 4</td><td style="text-align: right;">Investigative/Offense Report 55</td></tr> <tr> <td>13 5</td><td style="text-align: right;">General Order No. 425 73</td></tr> <tr> <td>14 6</td><td style="text-align: right;">Title of Vehicle 85</td></tr> <tr> <td>15 7</td><td style="text-align: right;">11/14/22 Email Correspondence 91</td></tr> <tr> <td>16 8</td><td style="text-align: right;">Photograph 95</td></tr> <tr> <td>17 9</td><td style="text-align: right;">Photograph 97</td></tr> <tr> <td>18 10</td><td style="text-align: right;">Photograph 100</td></tr> <tr> <td>19 11</td><td style="text-align: right;">Photograph 102</td></tr> <tr> <td>20 15</td><td style="text-align: right;">Photograph 58</td></tr> <tr> <td>21</td><td style="text-align: right;">(Exhibits retained by counsel.)</td></tr> <tr> <td>22</td><td></td></tr> <tr> <td>23</td><td></td></tr> <tr> <td>24</td><td></td></tr> <tr> <td>25</td><td></td></tr> </table> | 2 QUESTIONS BY: | PAGE | 3 Mr. Gelfand | 5, 126, 134 | 4 Ms. Robertson | 120, 133 | 5 | | 6 | | 7 | E X H I B I T S | 8 EXHIBIT | PAGE: | 9 1 | Interrogatory Answers 39 | 10 2 | General Order No. 441 45 | 11 3 | General Order No. 456 62 | 12 4 | Investigative/Offense Report 55 | 13 5 | General Order No. 425 73 | 14 6 | Title of Vehicle 85 | 15 7 | 11/14/22 Email Correspondence 91 | 16 8 | Photograph 95 | 17 9 | Photograph 97 | 18 10 | Photograph 100 | 19 11 | Photograph 102 | 20 15 | Photograph 58 | 21 | (Exhibits retained by counsel.) | 22 | | 23 | | 24 | | 25 | |
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| <p style="text-align: center;">3</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION</p> <p>-----</p> <p>1 RAYMOND THOMPSON,) 2) 3 Plaintiff,) 4) 5 v.)Cause No.: 4:23-cv-133-SRW 6) 7 JOSHUA COCKRELL, et al,) 8) 9 Defendant.) 10) 11 ----- 12</p> <p>13 DEPOSITION OF JOSHUA COCKRELL, produced, sworn, 14 and examined on behalf of the PLAINTIFF, on DECEMBER 15 4, 2023, between the hours of nine o'clock in the 16 morning and one o'clock in the afternoon of that 17 day, at Reichardt Noce & Young, 12444 Powerscourt 18 Drive, Suite 160, St. Louis, Missouri 63131, before 19 Sheila Field, a Certified Court Reporter within and 20 for the State of Missouri, in a certain cause now 21 pending in the United States District Court, Eastern 22 District of Missouri, Eastern Division, in the 23 above-entitled matter. 24 25 -----</p> | <p style="text-align: right;">4</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 The Plaintiff was represented by:</p> <p>2 Margulis Gelfand, LLC 3 7700 Bonhomme Avenue 4 Suite 750 5 St. Louis, Missouri 63105</p> <p>6 By: Justin Gelfand</p> <p>7 The Defendant was represented by:</p> <p>8 Reichardt Noce & Young 9 12444 Powerscourt Drive 10 Suite 160 11 St. Louis, Missouri 63131</p> <p>12 By: Catherine Robertson</p> <p>13 -----</p> <p>14 IT IS HEREBY STIPULATED AND AGREED by and 15 between counsel for the Plaintiff and counsel for 16 the Defendant that this deposition may be taken by 17 Sheila Field, CCR, a Certified Court Reporter, and 18 afterwards transcribed into typewriting; and the 19 signature of the witness is expressly reserved by 20 agreement of counsel and consent of the witness. 21 22 23 24 25</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| <p style="text-align: right;">5</p> <p>1 JOSHUA COCKRELL, 2 of lawful age, produced, sworn, and examined on 3 behalf of the PLAINTIFF, deposes and says: 4 5 EXAMINATION 6 QUESTIONS BY MR. GELFAND: 7 Q. Good morning. Could you please state and 8 spell your full name, for the benefit of the court 9 reporter? 10 A. State and spell? Officer Joshua Charles 11 Cockrell. It's J-O-S-H-U-A, middle C-H-A-R-L-E-S, 12 and then Cockrell, C-O-C-K-R-E-L-L. 13 Q. Have you ever had your deposition taken? 14 A. Never. 15 Q. Over the course of this deposition, I'm 16 going to ask you a number of questions. Your own 17 lawyer has the opportunity to ask you questions as 18 well. 19 A. Okay. 20 Q. If there's any question that any lawyer 21 asks you, that you don't understand, please tell us 22 that. I promise you, you won't offend me. You 23 won't offend her. We'd rather you understand the 24 question. 25 A. Okay.</p> | <p style="text-align: right;">6</p> <p>1 Q. Fair enough? 2 A. Fair. 3 Q. So similarly, if you answer a question, 4 I'm going to assume that you understood the 5 question. Fair enough? 6 A. Yep. 7 Q. Okay. The only other couple of just very, 8 very quick ground rules, to make our wonderful court 9 reporter's life a lot easier, is if we can make sure 10 not to talk over each other. She's preparing a 11 transcript of everything that's said. It makes a 12 lot more sense, when it's not one word, one word, so 13 on and so forth. 14 A. No problem. 15 Q. So if I complete my question, I'll let you 16 complete your answer. 17 A. Okay. 18 Q. Whole nine yards. Fair enough? 19 A. Yep. 20 Q. Okay. How are you currently employed? 21 A. I am a police officer with the City of 22 Manchester. 23 Q. How long have you been a police officer 24 with the City of Manchester? 25 A. Since 2015.</p> |
| <p style="text-align: right;">7</p> <p>1 Q. What are your duties and responsibilities, 2 as a police officer with the City of Manchester? 3 A. I go out, write tickets, answer calls of 4 service. I'm currently assigned the CRU unit, which 5 is community response unit. I have yet to work that 6 position, due to staffing. But once I'm on that, 7 I'll be doing fugitive arrests and any work that the 8 detectives will need help with. 9 Q. Was the role, that you described, the role 10 that you performed on October 22nd of 2022? In 11 other words, general duties? 12 A. No, it was not. 13 Q. What was the -- what were your general 14 duties and responsibilities on that day? 15 A. On that day, I was there basically, to 16 keep the peace. Originally, it came out as my call, 17 but I was on traffic that day. So Officer Gerholdt 18 took responsibility and was the first one on call. 19 Q. So we'll get into the details of what 20 happened that day, but just more broadly speaking, 21 was your position, that you have with the police 22 department, on that day, just basically a general, 23 on-call police officer? 24 A. Yeah. Like there -- if I was doing any 25 other day?</p> | <p style="text-align: right;">8</p> <p>1 Q. Yes. 2 A. Yeah. Correct. 3 Q. So patrolling traffic, responding to 4 calls? 5 A. Patrolling -- yes. 6 Q. Those kinds of things. What is your 7 academic background? 8 A. I have an associates degree in criminal 9 justice from St. Charles Community College. I went 10 to the police academy there as well. I also have a 11 Class A license. 12 Q. When did you obtain your associate's 13 degree? 14 A. I want to say 2012. 15 Q. And when did you obtain your law 16 enforcement license? 17 A. That was in 2013. 18 Q. Have you ever been licensed as a law 19 enforcement officer anywhere outside of the State of 20 Missouri? 21 A. No. 22 Q. Have you ever performed any sort of law 23 enforcement work outside the State of Missouri? 24 A. No. 25 Q. And that includes any sort of military</p> |

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| <p style="text-align: right;">9</p> <p>1 service.</p> <p>2 A. Well -- oh, I guess, military, you could</p> <p>3 say yes.</p> <p>4 Q. Were you a military police officer?</p> <p>5 A. No. No. But military work. I had signed</p> <p>6 up for the National Guard.</p> <p>7 Q. I got you. In the capacity of your</p> <p>8 service in the military, did you perform any sort of</p> <p>9 law enforcement function?</p> <p>10 A. No.</p> <p>11 Q. Okay. So the only law enforcement</p> <p>12 function you've ever performed is as a Missouri</p> <p>13 police officer?</p> <p>14 A. Yes.</p> <p>15 Q. And has it always been with the Manchester</p> <p>16 Police Department?</p> <p>17 A. No.</p> <p>18 Q. Where were you, prior to Manchester?</p> <p>19 A. City of Pagedale, for a year and a half.</p> <p>20 Q. And approximately when was that?</p> <p>21 Ballpark.</p> <p>22 A. I'd say 2013 until '15.</p> <p>23 Q. Why did you leave Pagedale and go to</p> <p>24 Manchester?</p> <p>25 A. Money. The money.</p> | <p style="text-align: right;">10</p> <p>1 Q. Meaning you made more money?</p> <p>2 A. Made more money. Yes. If I got paid what</p> <p>3 I did now, I would still be in Pagedale.</p> <p>4 Q. Okay. As a law enforcement officer,</p> <p>5 performing any function, would you agree with me</p> <p>6 that it's important to be thorough in your job?</p> <p>7 A. I agree.</p> <p>8 Q. Fair?</p> <p>9 A. Yes.</p> <p>10 Q. Keep an open mind?</p> <p>11 A. Yes.</p> <p>12 Q. Follow all leads?</p> <p>13 A. Yes.</p> <p>14 Q. Not rush to judgment, until you have all</p> <p>15 relevant evidence?</p> <p>16 A. Yes.</p> <p>17 Q. And be honest and accurate, in any reports</p> <p>18 or affidavits, anything along those lines, that you</p> <p>19 write?</p> <p>20 A. Yes.</p> <p>21 Q. As a law enforcement officer in</p> <p>22 Manchester, would you agree with me that you have a</p> <p>23 number of law enforcement tools at your disposal to</p> <p>24 use in certain cases?</p> <p>25 A. We do.</p> |
| <p style="text-align: right;">11</p> <p>1 MS. ROBERTSON: Objection, vague. You can</p> <p>2 answer.</p> <p>3 Q. (BY MR. GELFAND) What kind of tools do</p> <p>4 you have, to use in an investigation, when it's</p> <p>5 appropriate?</p> <p>6 A. When it's appropriate, I'd say we have the</p> <p>7 detective bureau. We've got surrounding agencies,</p> <p>8 that have drones, to help with missing children and</p> <p>9 so on. We have the SWAT team that we can call. We</p> <p>10 have the FBI that we could call. We have ICE,</p> <p>11 immigration, who we could call, if we need help with</p> <p>12 anything.</p> <p>13 Q. You have the ability, as a law enforcement</p> <p>14 officer, to apply for and if approved, execute</p> <p>15 search warrants, correct?</p> <p>16 A. Yes.</p> <p>17 Q. You have the ability to attempt to conduct</p> <p>18 witness interviews, correct?</p> <p>19 A. Yes.</p> <p>20 Q. What I mean by that is if someone's</p> <p>21 willing to voluntarily speak with you.</p> <p>22 A. Correct.</p> <p>23 Q. It happens all the time, correct?</p> <p>24 A. Correct.</p> <p>25 Q. You have the ability to apply for and if</p> | <p style="text-align: right;">12</p> <p>1 provided, issue subpoenas for documents, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And where appropriate and I understand</p> <p>4 that this may not be appropriate, in every case, you</p> <p>5 have access to forensics and crime laboratories, to</p> <p>6 do the whole gamut of those kinds of investigations,</p> <p>7 correct?</p> <p>8 A. We don't have access to it. We have to</p> <p>9 send it off.</p> <p>10 Q. But -- I understand. In other words, if</p> <p>11 in a particular case you're working, you want to run</p> <p>12 fingerprints or run DNA --</p> <p>13 A. Correct. It all has to be examined and</p> <p>14 then sent off to scientists and stuff that do that.</p> <p>15 Q. And the Manchester Police Department does</p> <p>16 that, in the ordinary course, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Now, would you agree with me that it's</p> <p>19 only fair to all parties, in any given circumstance,</p> <p>20 to use all available resources, to make sure that</p> <p>21 you've investigated any situation fairly and</p> <p>22 thoroughly?</p> <p>23 MS. ROBERTSON: Objection, calls for</p> <p>24 speculation. You can answer if you know.</p> <p>25 A. Can you repeat?</p> |

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| <p style="text-align: right;">13</p> <p>1 Q. (BY MR. GELFAND) Sure. Would you agree</p> <p>2 with me that it is only fair to all parties, meaning</p> <p>3 a potential suspect, if you're investigating a case,</p> <p>4 potential victim, if you're investigating a case, to</p> <p>5 use all available resources, to make sure you've</p> <p>6 investigated any situation fairly and thoroughly?</p> <p>7 MS. ROBERTSON: Same objection.</p> <p>8 A. I'm not going to answer that.</p> <p>9 Q. (BY MR. GELFAND) What do you mean you're</p> <p>10 not going to answer that?</p> <p>11 A. I mean, I guess you could. Yeah. You</p> <p>12 could use the resources available, but sometimes</p> <p>13 they're not readily available.</p> <p>14 Q. Did you personally draft any police</p> <p>15 reports or affidavits, in connection with this case?</p> <p>16 A. No.</p> <p>17 Q. Have you reviewed any police reports that</p> <p>18 colleagues prepared, in connection with this case?</p> <p>19 A. No.</p> <p>20 Q. So just to be clear, are you aware that</p> <p>21 Officer Gerholdt, if I'm pronouncing that correctly,</p> <p>22 prepared a police report and some supplemental</p> <p>23 police reports, in this case?</p> <p>24 A. Yes.</p> <p>25 Q. Have you ever read those?</p> | <p style="text-align: right;">14</p> <p>1 A. No.</p> <p>2 Q. Did anyone ever ask you to read them and</p> <p>3 opine as to whether, in your opinion, they were</p> <p>4 accurate and consistent with what you observed?</p> <p>5 A. No.</p> <p>6 Q. With respect to police reports, in</p> <p>7 general, would you agree with me that it's important</p> <p>8 to be accurate and complete?</p> <p>9 A. Yes.</p> <p>10 Q. Now, I want to direct your attention to</p> <p>11 the night of October 22nd of 2022. Do you recall</p> <p>12 that evening?</p> <p>13 A. Briefly.</p> <p>14 Q. Meaning you recall some details, but not</p> <p>15 others?</p> <p>16 A. I recall some details, but not all of</p> <p>17 them.</p> <p>18 Q. Okay. Were you on duty that evening?</p> <p>19 A. Yes.</p> <p>20 Q. Were you on duty with the Manchester</p> <p>21 Police Department?</p> <p>22 A. Yes.</p> <p>23 Q. Did you come into contact with an</p> <p>24 individual named Amara Elmore?</p> <p>25 A. Yes.</p> |
| <p style="text-align: right;">15</p> <p>1 Q. Did you also come into contact with an</p> <p>2 individual named Steven Mackenzie?</p> <p>3 A. Yes.</p> <p>4 Q. Where did you come into contact with those</p> <p>5 two people?</p> <p>6 A. His address.</p> <p>7 Q. Are you referring to Mr. Thompson's</p> <p>8 residence?</p> <p>9 A. Yes. Yes.</p> <p>10 Q. And Mr. Thompson's house is within the</p> <p>11 City of Manchester, Missouri, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Within your police department's</p> <p>14 jurisdiction, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Approximately when did you come into</p> <p>17 contact with those two individuals, Ms. Elmore and</p> <p>18 Mr. Mackenzie?</p> <p>19 A. I would -- want to say the call came out</p> <p>20 probably 20 -- 2330 or 2230, somewhere around there.</p> <p>21 And I was there on scene, after my traffic stop, ten</p> <p>22 minutes later.</p> <p>23 Q. So approximately 11:00 p.m. or so?</p> <p>24 A. No. Be 11 -- 11:30.</p> <p>25 Q. 11:30 p.m.?</p> | <p style="text-align: right;">16</p> <p>1 A. Uh-huh.</p> <p>2 Q. Were you -- when you responded to the</p> <p>3 scene, were you in a police vehicle?</p> <p>4 A. Yes.</p> <p>5 Q. A marked police vehicle?</p> <p>6 A. Yes.</p> <p>7 Q. Were you alone or did you have a partner</p> <p>8 or someone with you?</p> <p>9 A. I was alone.</p> <p>10 Q. When you arrived on scene, were there any</p> <p>11 other law enforcement officers present?</p> <p>12 A. Yes. Officer Gerholdt was first on scene.</p> <p>13 Q. When you arrived on scene, were there any</p> <p>14 law enforcement officers present, other than you and</p> <p>15 Officer Gerholdt?</p> <p>16 A. Not at that time.</p> <p>17 Q. When you arrived on scene, did you</p> <p>18 immediately make contact with Ms. Elmore and/or</p> <p>19 Mr. Mackenzie?</p> <p>20 A. I made contact with Officer Gerholdt and</p> <p>21 he told me the situation at hand.</p> <p>22 Q. What did Officer Gerholdt convey to you,</p> <p>23 when you arrived on scene?</p> <p>24 A. He conveyed to me the same as what</p> <p>25 dispatch said, that Steven and the other female was</p> |

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| <p style="text-align: right;">17</p> <p>1 there, because their dad -- her dad lend -- loaned a 2 motorcycle to -- I forgot who -- 3 Q. Mr. Thompson? 4 A. Mr. Thompson and he didn't return it. And 5 he's had it for six months. 6 Q. And is that all that Officer Gerholdt told 7 you? 8 A. Yes. At the time. 9 Q. What did you do, after speaking with 10 Officer Gerholdt, at the scene? 11 A. After speaking with him, I stood by. And 12 then they just said the same story as 13 Officer Gerholdt. Went up and knocked on the door. 14 Q. Let's back up for a second. I'm not 15 trying to put words in your mouth. I want to make 16 sure I understand exactly what happened. 17 A. Uh-huh. 18 Q. So if I'm misstating anything, please 19 correct me. 20 A. Uh-huh. 21 Q. So my understanding is that after 22 Officer Gerholdt told you what you just testified 23 about -- 24 A. Uh-huh. 25 Q. -- Officer Gerholdt went to Mr. Thompson's</p> | <p style="text-align: right;">18</p> <p>1 door, front door -- 2 A. Front door. 3 Q. -- to knock on it? 4 A. Yep. 5 Q. And then you spoke personally with 6 Ms. Elmore and Mr. Mackenzie? 7 A. Not -- they were just -- I didn't speak 8 with them personally. I stood there and they were 9 talking back and forth. 10 Q. To each other? 11 A. Correct. 12 Q. And what, if anything, did you hear, in 13 that conversation that they were having with each 14 other? 15 A. Just that he had her dad's motorcycle. 16 That is the only thing that I retained from that. 17 Q. Did you say anything to Ms. Elmore or 18 Mr. Mackenzie? 19 A. No. 20 Q. To this day, have you ever spoken with an 21 individual named Nathan Rench? 22 A. No. 23 Q. Prior to responding to Mr. Thompson's 24 house, on October 22nd of 2022, what, if any, 25 documents did you see, in connection with this</p> |
| <p style="text-align: right;">19</p> <p>1 motorcycle? 2 A. The first -- the first time or second 3 time? Because there was two times I was called 4 there. 5 Q. The first time. 6 A. The first time, I just seen the female 7 hand Officer Gerholdt the title. 8 Q. And when you say a title, are you 9 referring -- 10 A. A Missouri title. 11 Q. Are you referring to a purported title 12 that the female, Ms. Elmore, represented to 13 Officer Gerholdt was the title for the bike? 14 A. Correct. 15 MS. ROBERTSON: Sorry. Did you hear that 16 he asked you prior to your arrival? Is that what 17 you asked? 18 MR. GELFAND: Yes. 19 A. So before I arrived there? 20 Q. (BY MR. GELFAND) Yes. 21 A. No. No. 22 Q. Okay. When did you see Ms. Elmore hand a 23 copy of the purported title to the motorcycle, to 24 Officer Gerholdt? 25 A. When Officer Gerholdt couldn't get anybody</p> | <p style="text-align: right;">20</p> <p>1 to respond to the door at Mr. Thompson's house. 2 Q. Okay. Let's back up for a second. So you 3 watched Officer Gerholdt essentially knock on the 4 front door -- 5 A. Correct. 6 Q. -- or ring the doorbell? Did you go up to 7 the door with him? 8 A. Yes. 9 Q. Okay. Did you knock on the door? 10 A. No. 11 Q. But you were there when -- I don't care 12 who did the knocking, but you were both knocking at 13 the door? 14 A. Correct. 15 Q. And did you announce yourself as police? 16 A. Yes. 17 Q. Was anyone home? 18 A. No. 19 Q. Okay. 20 A. The lights were on, but no one answered 21 the door. 22 Q. Okay. How long did you wait to determine 23 that no one was home? 24 A. I'd say approximately a minute or two. 25 Q. When you -- is it fair to say you and</p> |

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6 (Pages 21 to 24)

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| <p style="text-align: right;">21</p> <p>1 Officer Gerholdt concluded that nobody was home, 2 meaning Mr. Thompson wasn't home? 3 A. Correct. 4 Q. Did you know who the owner of the house 5 was? 6 A. No. Not at the time. 7 Q. Had you ever come into contact with 8 Mr. Thompson? 9 A. Before? No. 10 Q. Had you ever come into contact with 11 Ms. Elmore and Mr. Mackenzie, before that night? 12 A. No. 13 Q. To the best of your knowledge, had you 14 ever come into contact with Nathan Rench, before 15 that night? 16 A. Never. 17 Q. To this day, have you ever spoken with 18 Nathan Rench? 19 A. Never. 20 Q. The house that you responded to, was that 21 1209 Cottagemill Drive? 22 A. Yes. 23 Q. In Manchester, Missouri 63021? 24 A. Yes. 25 Q. When you and Officer Gerholdt concluded</p> | <p style="text-align: right;">22</p> <p>1 that nobody was home, meaning the homeowner wasn't 2 home -- 3 A. Uh-huh. 4 Q. -- what, if anything, did you do? 5 A. What did we do after that? 6 Q. Yes. 7 A. Officer Gerholdt went back and made 8 contact with the two that were standing out there. 9 They then informed him that the motorcycle was in 10 the back yard. They could see it from the street. 11 Q. And then what did you do? When you say 12 they informed him, did you observe this? 13 A. Yes. Yes. 14 Q. So you could hear it? 15 A. I could hear it. Yes. Yes. 16 Q. Where are you-all standing? 17 A. On the side. Like in the front yard, next 18 to the sidewalk. 19 Q. What, if anything, do you do, at that 20 point, when they say that they can see the 21 motorcycle? 22 A. I follow Officer Gerholdt, as he continues 23 his investigation, to go to the side of the house, 24 to see if he can observe the motorcycle. 25 Q. When you say the side of the house, is</p> |
| <p style="text-align: right;">23</p> <p>1 there a driveway? 2 A. Yes. There's a driveway that leads -- 3 leads up and I guess around to the backyard. 4 Q. Are there any vehicles in the driveway? 5 A. There was a Jeep Wrangler in the driveway. 6 Q. What, if any, investigative work did you 7 do, to determine the ownership of the Jeep Wrangler? 8 A. I don't -- I can't recall. 9 Q. So as you -- let's back up, for a second. 10 Who walks in -- does anybody walk into 11 Mr. Thompson's back yard? 12 A. Yes. 13 Q. Okay. Who walks first? 14 A. Officer Gerholdt. 15 Q. So Officer Gerholdt walks into the back 16 yard. Where are Ms. Elmore and Mr. Mackenzie, at 17 that time? 18 A. They're following behind him and then me. 19 Q. Okay. So if there's a line, so to speak, 20 it's Mr. Gerholdt, Ms. Elmore, Mr. Mackenzie, and 21 then you, Mr. Cockrell? 22 A. Correct. 23 Q. But you're all walking together? Meaning, 24 you're all walking at the same time? 25 A. I would -- I wouldn't necessarily say the</p> | <p style="text-align: right;">24</p> <p>1 same time, because we still don't know if anybody's 2 -- we're not getting anybody to answer the door at 3 the house. So I'm still keeping a visual of the 4 house, to see if anybody's looking out of any of the 5 windows or if someone says hey, I'm here. 6 So Officer Gerholdt approaches from the 7 left side. I approach from the right side. Then 8 the other two go behind Officer Gerholdt and they 9 point to where the motorcycle is. 10 Q. And the motorcycle is in like a gated back 11 yard, correct? 12 A. Open gated back yard. Yes. 13 Q. We'll get to that, in a second. But the 14 back yard has a -- and I'll show you pictures, in a 15 few minutes. But the back yard, based on what you 16 observed, has a gated tall privacy fence around the 17 perimeter, correct? 18 A. Correct. 19 Q. Okay. And just to be clear, so that we're 20 getting our bearings, the motorcycle is fairly deep 21 into that back yard, correct? 22 A. I would say -- 23 MS. ROBERTSON: Objection, calls for 24 speculation. 25 Q. (BY MR. GELFAND) Where was the</p> |

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7 (Pages 25 to 28)

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| <p style="text-align: right;">25</p> <p>1 motorcycle, in connection with the back yard? 2 Approximately how far was it from where you entered 3 the back yard from the driveway? 4 MS. ROBERTSON: Objection, calls for 5 speculation. 6 A. I can't recall on that. 7 Q. (BY MR. GELFAND) Was it 2 feet? 8 A. I can't -- I don't -- I don't -- I'm not 9 good at math, so I can't measure. I mean, I didn't 10 -- I could see it from -- with the gate being open. 11 Q. Okay. When you responded to the house, 12 were you wearing a police uniform, for lack of a 13 better way of putting it? 14 A. Yes. 15 Q. Were you wearing similar to what you're 16 wearing now, which is a walkie-talkie -- 17 A. Yes. 18 Q. -- notification that says police, your 19 name, Cockrell? 20 A. Uh-huh. 21 Q. Yes? 22 A. Yes. 23 Q. And did you have a -- 24 A. The only thing that was different was I 25 had my DSN right here, instead of my last name.</p> | <p style="text-align: right;">26</p> <p>1 Q. Okay. Did you have -- were you armed? 2 A. Yes. 3 Q. Okay. With a sidearm? 4 A. Yes. 5 Q. And was Officer Cockrell similarly dressed 6 -- I'm sorry -- Officer Gerholdt similarly dressed, 7 but obviously with his name instead of your name? 8 A. Yes. 9 Q. Were you wearing -- when you arrived at 10 the scene, did you utilize a police vehicle with a 11 dash cam? 12 A. Yes. 13 Q. Do you know what a dash cam is? 14 A. Uh-huh. 15 Q. What is the purpose of a dash cam? 16 A. To record -- 17 MS. ROBERTSON: You can answer. 18 A. To record your traffic stops and whenever 19 you turn on your emergency lights and sirens. 20 Q. (BY MR. GELFAND) When you responded to 21 this scene, did you turn on your emergency lights 22 and sirens? 23 A. I did not. 24 Q. So to the best of your knowledge, was the 25 dash cam enabled, in connection with this particular</p> |
| <p style="text-align: right;">27</p> <p>1 call? 2 A. No. 3 Q. When you were on scene at Mr. Thompson's 4 house, were you wearing a body camera? 5 A. Yes. 6 Q. And what is a body camera? 7 A. It records interactions with people on 8 traffic stops, as well as when you're on different 9 calls. 10 Q. What is your understanding of the purpose 11 of a body camera? 12 A. My understanding is to record everything. 13 Q. And is it fair to say that the benefit of 14 recording everything is it protects police officers 15 from any claims that something that didn't happen 16 did happen? 17 MS. ROBERTSON: Objection, calls for 18 speculation. 19 Q. (BY MR. GELFAND) Is that fair? 20 A. Yes. 21 Q. And it protects suspects from claiming 22 something did happen that a police officer may say 23 didn't happen, for example? 24 MS. ROBERTSON: Same objection. 25 A. Yes.</p> | <p style="text-align: right;">28</p> <p>1 Q. (BY MR. GELFAND) The point is, it creates 2 an accurate memorialization of what happens, 3 correct? 4 A. Uh-huh. 5 Q. Yes? 6 A. Yes. 7 Q. Okay. Did you utilize a body cam, when 8 you responded to Mr. Thompson's house, on October 9 22nd of 2022? 10 A. No. 11 Q. Were you wearing a body cam? 12 A. Yes. 13 Q. Is it your testimony that you just didn't 14 turn it on? 15 A. Yes. 16 Q. Why? 17 A. Because I don't -- at the time, there were 18 certain calls that we had to -- we could use, to 19 turn on our body camera or we could not turn on our 20 body camera. And I wasn't primary officer of that 21 call. So I did not utilize the body cam, because I 22 wasn't doing the talking and interaction with other 23 people. 24 Q. Just to be clear, your testimony, under 25 oath, is that you were wearing a body camera, on</p> |

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8 (Pages 29 to 32)

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| <p style="text-align: right;">29</p> <p>1 that evening, but you did not record?</p> <p>2 A. Correct. I did not engage it.</p> <p>3 Q. How does one engage a body cam that you</p> <p>4 were wearing?</p> <p>5 A. There's a front button on the -- there's a</p> <p>6 button on the front of it. You push it and a red</p> <p>7 light starts flashing.</p> <p>8 Q. So if a red light is on the body camera,</p> <p>9 it means it's recording?</p> <p>10 A. Correct.</p> <p>11 Q. And is there a green light?</p> <p>12 A. Yes.</p> <p>13 Q. What, if anything, does the green light</p> <p>14 indicate?</p> <p>15 A. Just standby.</p> <p>16 Q. Meaning it's on?</p> <p>17 A. Yes.</p> <p>18 Q. So it's not recording?</p> <p>19 A. Correct.</p> <p>20 Q. So if both the red light and the green</p> <p>21 light are on, it's recording?</p> <p>22 A. Yes.</p> <p>23 Q. What happened, based on what you observed,</p> <p>24 when you-all, as you were describing, a few minutes</p> <p>25 ago, entered Mr. Thompson's back yard, through the</p> | <p style="text-align: right;">30</p> <p>1 driveway?</p> <p>2 A. What happened, after that?</p> <p>3 Officer Gerholdt went up to the motorcycle. He</p> <p>4 looked at the VIN of the motorcycle and the same VIN</p> <p>5 coincided with what the female had provided him,</p> <p>6 prior to us going back there. Officer Gerholdt then</p> <p>7 ran the VIN through our dispatching system, which</p> <p>8 came back to Nathan Rench was the registered owner</p> <p>9 of the motorcycle.</p> <p>10 Q. Was anybody on scene representing himself</p> <p>11 or herself to be Nathan Rench?</p> <p>12 A. His daughter was there.</p> <p>13 Q. That wasn't my question. Was anybody on</p> <p>14 scene representing himself or herself to be</p> <p>15 Nathan Rench?</p> <p>16 A. No.</p> <p>17 Q. When you say his daughter was there, who</p> <p>18 are you referring to?</p> <p>19 A. I can't think of her name.</p> <p>20 Q. Are you referring to Ms. Elmore?</p> <p>21 A. Yes.</p> <p>22 Q. Amara Elmore?</p> <p>23 A. Yes.</p> <p>24 Q. What, if any, investigative work did you</p> <p>25 do, to determine whether Ms. Elmore was actually</p> |
| <p style="text-align: right;">31</p> <p>1 Nathan Rench's daughter?</p> <p>2 A. I did none.</p> <p>3 Q. So the entire basis of your conclusion</p> <p>4 that she was his daughter was that she told you she</p> <p>5 was his daughter?</p> <p>6 A. And she provided us with a title, a</p> <p>7 Missouri title, for the motorcycle.</p> <p>8 Q. Does the title indicate a familial</p> <p>9 relationship between Ms. Elmore and Mr. Rench?</p> <p>10 A. No.</p> <p>11 Q. Is Ms. Elmore's name anywhere on the title</p> <p>12 that she provided you?</p> <p>13 A. No.</p> <p>14 Q. Was Mr. Mackenzie's name anywhere on the</p> <p>15 title that she provided you?</p> <p>16 A. No.</p> <p>17 Q. How long were you in the back yard?</p> <p>18 MS. ROBERTSON: Objection, calls for</p> <p>19 speculation.</p> <p>20 A. I don't recall.</p> <p>21 Q. (BY MR. GELFAND) Do you -- do you readily</p> <p>22 acknowledge that you stepped foot in Mr. Thompson's</p> <p>23 back yard?</p> <p>24 A. Yes, I do.</p> <p>25 Q. Did you respond to under oath</p> | <p style="text-align: right;">32</p> <p>1 interrogatories, in connection with this case?</p> <p>2 A. Yes.</p> <p>3 Q. Prior to responding to under oath</p> <p>4 interrogatories in this case, did you understand</p> <p>5 that you were signing these, under penalties of</p> <p>6 perjury?</p> <p>7 A. Yes.</p> <p>8 Q. And did you take great care, to make sure</p> <p>9 that every interrogatory answer, that you provided,</p> <p>10 was accurate, to the best of your knowledge?</p> <p>11 A. To the best of my knowledge. Yes.</p> <p>12 Q. In your under oath interrogatory, in</p> <p>13 response to a slightly different question, at what</p> <p>14 time exactly and for how long did you enter and</p> <p>15 remain on the plaintiff's property, you estimated,</p> <p>16 quote, approximately 20 to 25 minutes.</p> <p>17 MS. ROBERTSON: Justin, can you tell me</p> <p>18 what interrogatory answer you're referring to?</p> <p>19 MR. GELFAND: Sure. Number 15.</p> <p>20 Q. (BY MR. GELFAND) You can look at that, if</p> <p>21 you'd like.</p> <p>22 A. Yeah. Twenty to -- for the whole time of</p> <p>23 the call.</p> <p>24 Q. Yeah. I understand. How much of the time</p> <p>25 that you were on scene of the call, proportionally,</p> |

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9 (Pages 33 to 36)

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| <p style="text-align: right;">33</p> <p>1 were you in the back yard?</p> <p>2 A. I'd say five minutes, if that. Five or</p> <p>3 ten minutes.</p> <p>4 Q. What did you personally do, as opposed to</p> <p>5 Officer Gerholdt, when you were in the back yard?</p> <p>6 A. I --</p> <p>7 MS. ROBERTSON: Objection, vague, calls</p> <p>8 for speculation.</p> <p>9 Q. (BY MR. GELFAND) You can answer the</p> <p>10 question. Do you understand the question?</p> <p>11 A. Yeah. I was basically there, just to keep</p> <p>12 the peace. There was two of them and one of him.</p> <p>13 So basically, wherever he went, I followed, just to</p> <p>14 make sure he was safe and that nothing got out of</p> <p>15 order.</p> <p>16 Q. Was it fair to say that based on what you</p> <p>17 observed, Officer Gerholdt was investigating the</p> <p>18 ownership of the motorcycle?</p> <p>19 A. Yes.</p> <p>20 Q. You testified, a few minutes ago, that you</p> <p>21 observed Officer Gerholdt check the VIN number on</p> <p>22 the motorcycle?</p> <p>23 A. Yes.</p> <p>24 Q. Did Officer Gerholdt, based on what you</p> <p>25 observed, physically touch the motorcycle?</p> | <p style="text-align: right;">34</p> <p>1 A. I don't recall on that.</p> <p>2 Q. Where was the VIN?</p> <p>3 A. I think he -- he read the VIN off the</p> <p>4 front of the forks.</p> <p>5 Q. Did you physically watch -- well, scratch</p> <p>6 that.</p> <p>7 At any time, when you were in the back</p> <p>8 yard or able to see the back yard, was anyone</p> <p>9 physically present, other than you,</p> <p>10 Officer Gerholdt, Ms. Elmore, and Mr. Mackenzie?</p> <p>11 MS. ROBERTSON: Objection, compound, it</p> <p>12 calls for speculation, vague. You can answer if you</p> <p>13 know.</p> <p>14 Q. (BY MR. GELFAND) Do you understand the</p> <p>15 question?</p> <p>16 A. I cannot -- not to my knowledge.</p> <p>17 Q. Let me ask it a different way. During</p> <p>18 your entire interactions involving the motorcycle,</p> <p>19 did you see anyone in Mr. Thompson's back yard, with</p> <p>20 respect to this first time that you went to</p> <p>21 Mr. Thompson's house?</p> <p>22 A. No.</p> <p>23 Q. Other than the four people, including</p> <p>24 yourself, that you've identified?</p> <p>25 A. No.</p> |
| <p style="text-align: right;">35</p> <p>1 Q. What, if anything, did you say from the</p> <p>2 back yard, to determine whether anybody was home?</p> <p>3 A. Manchester Police Department.</p> <p>4 Q. What, if anything, did Officer Gerholdt</p> <p>5 say in your presence?</p> <p>6 A. He announced the same, before running the</p> <p>7 VIN.</p> <p>8 Q. Did Ms. Elmore or Mr. Mackenzie provide</p> <p>9 anything to law enforcement, in your presence at the</p> <p>10 house, other than this purported title?</p> <p>11 MS. ROBERTSON: Object to form, calls for</p> <p>12 speculation.</p> <p>13 A. I don't recall.</p> <p>14 Q. (BY MR. GELFAND) Did they provide any</p> <p>15 pieces of paper?</p> <p>16 A. Not that I seen, besides the title.</p> <p>17 Q. When you entered Mr. Thompson's back yard,</p> <p>18 did you have a search warrant?</p> <p>19 A. No.</p> <p>20 Q. When you entered Mr. Thompson's back yard,</p> <p>21 did you believe there were exigent circumstances?</p> <p>22 MS. ROBERTSON: Objection, calls for a</p> <p>23 legal conclusion. You can answer if you know.</p> <p>24 A. Yes.</p> <p>25 Q. (BY MR. GELFAND) Do you know what exigent</p> | <p style="text-align: right;">36</p> <p>1 circumstances are?</p> <p>2 A. I do.</p> <p>3 Q. Describe what you believe the exigent</p> <p>4 circumstances were, such that you needed to enter</p> <p>5 the back yard, without a search warrant.</p> <p>6 A. I'd say to check and see if the motorcycle</p> <p>7 was there, which you could see from, I'd say, when</p> <p>8 you were halfway on the sidewalk, you could see it.</p> <p>9 So why would someone make that story up?</p> <p>10 Q. So just to be clear, is that the totality</p> <p>11 of what you're describing were exigent</p> <p>12 circumstances?</p> <p>13 A. I'd say yes.</p> <p>14 Q. Did you enter the back yard, to render</p> <p>15 emergency assistance to an injured person?</p> <p>16 A. No.</p> <p>17 Q. Did you enter the back yard, to render</p> <p>18 emergency assistance to protect somebody from</p> <p>19 imminent injury?</p> <p>20 A. No.</p> <p>21 Q. Would you agree with me that when you and</p> <p>22 Officer Gerholdt entered Mr. Thompson's back yard,</p> <p>23 you did not have Mr. Thompson's consent?</p> <p>24 A. Yes.</p> <p>25 Q. Would you agree with me that if you had</p> |

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10 (Pages 37 to 40)

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| <p style="text-align: right;">37</p> <p>1 probable cause to search the back yard, you had 2 enough time to apply for a search warrant? 3 MS. ROBERTSON: Object to speculation -- 4 object to form, calls for speculation, assumes facts 5 not in evidence. You can answer if you know. 6 A. Repeat. 7 Q. (BY MR. GELFAND) I'm focusing solely on 8 the timing issue. 9 A. So repeat the question. 10 Q. Would you agree with me that if you had 11 probable cause to search the back yard, you had 12 enough time to apply for a search warrant? 13 MS. ROBERTSON: Same objection. 14 A. Do I have to answer that one? 15 Q. (BY MR. GELFAND) Yes. 16 A. I do? I don't -- can't say I agree or 17 disagree on that, because we wasn't there for a 18 criminal call. So -- 19 Q. Let's back up. When you say you weren't 20 there for a criminal call -- 21 A. Meaning Mr. Thompson was not a criminal 22 involved in that case. 23 Q. We can agree on that. 24 A. So -- 25 Q. Were you in -- what were you</p> | <p style="text-align: right;">38</p> <p>1 investigating, if you were not there for a criminal 2 call? 3 A. I was not investigating anything. 4 Q. What was Officer Gerholdt, as you 5 understood it, investigating as you -- 6 MS. ROBERTSON: Object -- 7 Q. (BY MR. GELFAND) -- previously testified, 8 if he was not there for a criminal call? 9 MS. ROBERTSON: Object to form, calls for 10 speculation, assumes facts not in evidence. You can 11 answer if you know. 12 A. He was investigating, to determine the 13 ownership of the motorcycle. 14 Q. (BY MR. GELFAND) For what purpose? 15 MS. ROBERTSON: Same objection. 16 A. To see if Raymond -- what was his last 17 name again? I keep -- for some reason -- 18 Q. (BY MR. GELFAND) Thompson. 19 A. Thompson was the owner of it. 20 Q. What was your understanding, as to why it 21 was important to determine -- for law enforcement to 22 determine who the owner of the motorcycle was? 23 A. I'd say because if they were the owners of 24 it, that they should have the bike. He shouldn't -- 25 he shouldn't be hiding it from them.</p> |
| <p style="text-align: right;">39</p> <p>1 Q. And is it fair to say that that was your 2 understanding of the function Manchester police was 3 performing that night? 4 A. Yes. 5 Q. In your interrogatories, which I'll just 6 mark these as Exhibit 1. 7 (WHEREIN, Plaintiff's Exhibit No. 1 was 8 marked for identification.) 9 MS. ROBERTSON: I've got a copy. Here you 10 go. Well, actually, if you have a spare copy, he'll 11 take it. 12 MR. GELFAND: Sure. 13 MS. ROBERTSON: That way, I can just keep 14 all the exhibits. 15 MR. GELFAND: You're good. 16 Q. (BY MR. GELFAND) I'm showing you what 17 I've marked as Exhibit 1. Can you tell me if you 18 recognize Exhibit 1? 19 A. Yes. 20 Q. Let me ask you this for a second. The 21 Exhibit 1 that we have does not appear to have your 22 signature on it. Did you actually sign these 23 interrogatories? 24 A. I did. I signed -- I signed it and then I 25 faxed it.</p> | <p style="text-align: right;">40</p> <p>1 Q. Okay. I will just ask you purposely and 2 that's fine. There's no issues with that. 3 MS. ROBERTSON: I can get you a like copy, 4 right now. 5 MR. GELFAND: Yeah. That's totally fine. 6 No. That's totally fine. 7 Q. (BY MR. GELFAND) I'm just going to ask 8 you, just so we have a comprehensive record, did you 9 sign these answers to these interrogatories under 10 the penalties of perjury? 11 A. Yes. 12 Q. Okay. And you recall doing that, correct? 13 A. Yes. 14 Q. Okay. Now, in your interrogatories, 15 Interrogatory No. 5, you wrote -- if you go to the 16 next page -- this defendant, meaning you, did not 17 activate dash or body cameras. 18 And that's what you've testified about 19 today, correct? 20 A. Yes. 21 Q. Are you familiar with what the Manchester 22 Police Department does, with respect to body camera 23 footage, when you do activate it, on a call? 24 MS. ROBERTSON: Objection, calls for 25 speculation.</p> |

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11 (Pages 41 to 44)

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| <p style="text-align: right;">41</p> <p>1 A. I don't. I don't -- I don't know how long 2 it's retained for. 3 Q. (BY MR. GELFAND) Have you ever had an 4 instance where you needed to obtain your body camera 5 footage to provide it, for example, to a prosecutor 6 in a case? 7 A. Yes. 8 Q. How did you perform that task? 9 A. I down -- I downloaded it to a CD within 10 24 hours. 11 Q. And when you say you downloaded it, do you 12 have access, as a Manchester police officer, to body 13 camera footage? 14 A. Yes. 15 Q. And when it is appropriate or necessary to 16 do so, is it your job, as the officer, to personally 17 download it? 18 A. Correct. For evidence. Yes. 19 Q. To the best of your knowledge, did 20 Officer Gerholdt utilize his dash camera or body 21 camera, that evening? 22 MS. ROBERTSON: Objection, calls for 23 speculation. You can answer if you know. 24 A. I thought he had his -- his body camera 25 on. I seen -- when I approached him, I seen red on</p> | <p style="text-align: right;">42</p> <p>1 it. So I knew it was recording. 2 Q. (BY MR. GELFAND) Do you know personally 3 what happened to that footage? 4 MS. ROBERTSON: Same objection. 5 A. No. But see, there's a caveat to it. 6 Also, when it records -- when it's blinking red, 7 it's also showing that it's dying. 8 Q. (BY MR. GELFAND) Have you ever seen body 9 camera footage from that evening? 10 A. No. 11 Q. In your interrogatories, if we go to No. 12 15, please, Page 7. Do you see your answer to No. 13 15? 14 A. Yes. 15 Q. We asked you, if you did enter plaintiff's 16 back yard without a warrant, on what legal 17 authority, if any, did you rely to enter plaintiff's 18 property. 19 MS. ROBERTSON: Objection, calls for a 20 legal conclusion. 21 MR. GELFAND: Well, I didn't even ask the 22 question. 23 Q. (BY MR. GELFAND) But is that what we 24 asked you? 25 A. You asked me that earlier?</p> |
| <p style="text-align: right;">43</p> <p>1 Q. No. Is that what I asked you on 15C? Did 2 I just read that fairly? I can read it again. 3 A. Yeah. 4 Q. Did I ask you, if you did enter 5 plaintiff's back yard without a warrant, on what 6 legal authority, if any, did you rely to enter 7 plaintiff's property? Did I just read that 8 correctly? 9 A. No. There's nothing on here about a 10 warrant, in No. 15. 11 Q. If you go to 15C. 12 A. Oh, that one. Okay. I -- 13 Q. Did I read that correctly? 14 A. Yes. Yes. 15 Q. Okay. 16 A. The bottom portion. You did. 17 Q. And if we look at your answer to C, you 18 wrote, under oath, quote, pursuant to the community 19 caretaker exception to the warrant requirement, in 20 order to keep the peace, during a self-help 21 repossession and to ensure officer safety, end 22 quote. Did I read that correctly? 23 A. Yes. 24 Q. Is that a truthful answer? 25 A. Yes.</p> | <p style="text-align: right;">44</p> <p>1 Q. Now, in your interrogatory responses, you 2 reference two general order numbers. In particular, 3 No. 11, Page 6. Do you see that? 4 A. Yes. 5 Q. Did you represent, in your interrogatory, 6 that your conduct on October 22nd and 23rd, going 7 into the morning hours, of 2022, was consistent with 8 General Order Nos. 441 and 456? 9 A. Yes. 10 Q. Are you familiar with General Order No. 11 441? 12 A. I am. 13 Q. What is a general order? 14 A. A general order is practices and orders, 15 that are followed by the department. 16 Q. What, if any, training do you receive, 17 with respect to general orders? 18 A. You do not -- you don't receive training, 19 for general orders. It depends on which general 20 order it is. If it's spike strips, you will receive 21 training on that. If it's firearms, you will 22 receive training on that. 23 Q. Did you receive any training, at all, on 24 General Order No. 441? 25 A. Can I see which one 441 is?</p> |

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12 (Pages 45 to 48)

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| <p style="text-align: right;">45</p> <p>1 Q. Sure.</p> <p>2 MR. GELFAND: Let's mark it as Exhibit 2,</p> <p>3 please.</p> <p>4 (WHEREIN, Plaintiff's Exhibit No. 2 was</p> <p>5 marked for identification.)</p> <p>6 Q. (BY MR. GELFAND) Can you tell me if you</p> <p>7 have Exhibit 2 in front of you? I'm just asking</p> <p>8 if --</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Is Exhibit 2 General Order No. 441,</p> <p>11 that you referenced in Interrogatory Response No.</p> <p>12 11?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recognize Exhibit 2?</p> <p>15 A. Yes.</p> <p>16 Q. Had you received a copy of Exhibit 2,</p> <p>17 prior to responding to Mr. Thompson's house on</p> <p>18 October -- in October of 2022?</p> <p>19 A. Yes.</p> <p>20 Q. Now, if we look at Exhibit 2, it says, the</p> <p>21 purpose of this general order is to establish</p> <p>22 procedures to follow when property interests are in</p> <p>23 dispute or this department is notified of vehicle</p> <p>24 repossessions. Did I read that correctly?</p> <p>25 A. Correct.</p> | <p style="text-align: right;">46</p> <p>1 Q. And this was effective in June of 2020,</p> <p>2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. If we look at the Page 2, there's a</p> <p>5 subsection entitled Policy.</p> <p>6 MS. ROBERTSON: I'm sorry. I don't see</p> <p>7 that, Justin. I must not have this page. 441?</p> <p>8 What's at the top of your page? Is it -- or is it</p> <p>9 Bates No. 151?</p> <p>10 MR. GELFAND: 819.</p> <p>11 THE WITNESS: I don't have that either.</p> <p>12 MS. ROBERTSON: You know what? I -- I --</p> <p>13 yeah.</p> <p>14 MR. GELFAND: I've got -- is that not on</p> <p>15 there?</p> <p>16 THE WITNESS: Nope.</p> <p>17 MR. GELFAND: Sorry. I think that might</p> <p>18 have just been a photocopy problem.</p> <p>19 MS. ROBERTSON: We can -- we can fix it.</p> <p>20 Let's see -- actually, you know what? Can we just</p> <p>21 take a quick break, because --</p> <p>22 MR. GELFAND: Sure.</p> <p>23 MS. ROBERTSON: -- I need to use the</p> <p>24 restroom and we'll run you a copy.</p> <p>25 MR. GELFAND: Yeah. That's fine.</p> |
| <p style="text-align: right;">47</p> <p>1 MS. ROBERTSON: Does that work?</p> <p>2 MR. GELFAND: Yeah.</p> <p>3 (WHEREIN, a brief break was taken.)</p> <p>4 Q. (BY MR. GELFAND) Officer, we're back from</p> <p>5 a break. One thing I meant to tell you, at the</p> <p>6 beginning of this depo, is if, at any time, you need</p> <p>7 to take a break, it's not a speed contest. It's</p> <p>8 totally fine. Just say so.</p> <p>9 A. Okay.</p> <p>10 Q. If there's a question that's pending, I</p> <p>11 would just ask that you answer it. But at any time,</p> <p>12 you're welcome to take five, ten minutes, whatever</p> <p>13 you need.</p> <p>14 A. Okay.</p> <p>15 Q. Now, I want to show you Exhibit 2. And</p> <p>16 I'm going to back up, for a second, so we have a</p> <p>17 clean record.</p> <p>18 Exhibit 2 is General Order No. 441,</p> <p>19 effective 5/26 of 2020, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. And if we look at the top of</p> <p>22 Exhibit 2, it says, the purpose of this general</p> <p>23 order is to establish procedures to follow, when</p> <p>24 property interests are in dispute or this department</p> <p>25 is notified of vehicle repossessions, correct?</p> | <p style="text-align: right;">48</p> <p>1 A. Correct.</p> <p>2 Q. And then just under that, there's the</p> <p>3 policy itself. Do you see that?</p> <p>4 A. Correct.</p> <p>5 Q. And the policy says, the officer should</p> <p>6 not attempt to take personal property away from one</p> <p>7 party and give it to another, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Then we see procedure. Do you see that?</p> <p>10 A. Yep.</p> <p>11 Q. And could you read what A says?</p> <p>12 A. When property is in dispute, the officer</p> <p>13 should advise -- advise and permit the courts to</p> <p>14 determine their respective of rights to the</p> <p>15 property. The officer should advise the party in</p> <p>16 possession of the property not to dispute of it,</p> <p>17 until the courts have resolved the matter.</p> <p>18 Q. And it says not to dispose of it, correct?</p> <p>19 A. Yep.</p> <p>20 Q. Okay. And so is it fair to say what that</p> <p>21 says is --</p> <p>22 A. Not to dispute. Yeah.</p> <p>23 Q. Yeah. Is it fair to say that what that</p> <p>24 says is that the officer should permit the courts to</p> <p>25 determine who owns the property, if there's a</p> |

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13 (Pages 49 to 52)

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| <p style="text-align: right;">49</p> <p>1 dispute?</p> <p>2 MS. ROBERTSON: I'd object to form.</p> <p>3 The -- the exhibit speaks for itself. Calls for</p> <p>4 speculation.</p> <p>5 Q. (BY MR. GELFAND) Is that how you</p> <p>6 understood the policy?</p> <p>7 A. Yeah.</p> <p>8 Q. Okay.</p> <p>9 A. If it's a repossession.</p> <p>10 Q. Okay. And in this particular instance,</p> <p>11 just factually speaking, to the best of your</p> <p>12 knowledge, was there a court determination that</p> <p>13 Ms. Elmore owned this property?</p> <p>14 A. No.</p> <p>15 Q. Was there a court determination that</p> <p>16 Mr. Mackenzie owned this property?</p> <p>17 A. No.</p> <p>18 Q. Was there a court determination that</p> <p>19 Mr. Rench owned this property?</p> <p>20 A. No.</p> <p>21 Q. Could you please tell me if I'm reading B</p> <p>22 correctly? If one party has a court order, which</p> <p>23 appears to give that party the right to possession</p> <p>24 of the property, that order should be enforced only</p> <p>25 by the official specifically directed to do so in</p> | <p style="text-align: right;">50</p> <p>1 the order. Officers are advised to be aware of</p> <p>2 court orders of suspicious nature. Did I read that</p> <p>3 correctly?</p> <p>4 A. Yes.</p> <p>5 Q. And in this case, of course, as you just</p> <p>6 testified, there was no court order, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Just to be clear, when we go back to that</p> <p>9 night, in October of 2022, at Mr. Thompson's house,</p> <p>10 when you arrived on the scene, before you went into</p> <p>11 the back yard, would you agree with me that the</p> <p>12 property at issue was a Harley Davidson motorcycle?</p> <p>13 A. Yes.</p> <p>14 Q. Would you agree with me that that</p> <p>15 property, the Harley Davidson motorcycle, was parked</p> <p>16 inside the back yard of Mr. Thompson's house?</p> <p>17 A. I would say it was inside the fence,</p> <p>18 inside the back yard. Yeah.</p> <p>19 Q. It was on Mr. Thompson's private property,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. Inside the -- the privacy fence</p> <p>23 that you previously described, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. And so prior to you-all arriving at</p> |
| <p style="text-align: right;">51</p> <p>1 the house, would you agree with me, to state the</p> <p>2 obvious, that Mr. Thompson was in possession of the</p> <p>3 Harley Davidson motorcycle?</p> <p>4 MS. ROBERTSON: Objection -- objection,</p> <p>5 calls for a legal conclusion. You can answer if you</p> <p>6 know.</p> <p>7 A. I don't know.</p> <p>8 Q. (BY MR. GELFAND) Was it at his house?</p> <p>9 A. It was at his house. Correct. But I</p> <p>10 don't know why it was at his house.</p> <p>11 Q. And that's a different question. I'm just</p> <p>12 asking factually speaking, whether he should have</p> <p>13 been or shouldn't have been, would you agree with me</p> <p>14 that he was physically in possession of the</p> <p>15 motorcycle?</p> <p>16 A. Yeah.</p> <p>17 MS. ROBERTSON: Same objection.</p> <p>18 Q. (BY MR. GELFAND) You can answer the</p> <p>19 question.</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Did you believe there was a</p> <p>22 property dispute?</p> <p>23 A. I'd say yes.</p> <p>24 Q. Between whom?</p> <p>25 A. Mr. Thompson and Rench.</p> | <p style="text-align: right;">52</p> <p>1 Q. And Mr. Rench?</p> <p>2 A. Yep.</p> <p>3 Q. Is that Nathan Rench?</p> <p>4 A. Yep.</p> <p>5 Q. Was there any basis, at all, in which you</p> <p>6 concluded that Mr. Mackenzie had a legal interest in</p> <p>7 this property?</p> <p>8 MS. ROBERTSON: Objection, calls for</p> <p>9 speculation, calls for a legal conclusion. You can</p> <p>10 answer if you know.</p> <p>11 A. I don't have -- I didn't -- I mean, I</p> <p>12 spoke with him for like ten seconds. I couldn't</p> <p>13 tell you.</p> <p>14 Q. (BY MR. GELFAND) Was there any basis, at</p> <p>15 all, in which you concluded that Ms. Elmore had a</p> <p>16 legal interest in this property?</p> <p>17 MS. ROBERTSON: Same objection.</p> <p>18 A. She was the one that provided the title.</p> <p>19 Yes.</p> <p>20 Q. (BY MR. GELFAND) How did she physically</p> <p>21 provide what you're calling a title?</p> <p>22 A. I don't -- I don't remember everything.</p> <p>23 But I remember her pulling -- pulling it out of her</p> <p>24 Ford Escape. I think she went into her purse, I</p> <p>25 think, and then she pulled out a title, a Missouri</p> |

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14 (Pages 53 to 56)

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| <p style="text-align: right;">53</p> <p>1 title.</p> <p>2 Q. Was it a physical piece of paper?</p> <p>3 A. Physical document.</p> <p>4 Q. And who did she hand that document to?</p> <p>5 A. Officer Gerholdt.</p> <p>6 Q. Where is that document?</p> <p>7 A. I don't have it. I don't -- I don't know</p> <p>8 if it was seized for evidence. Could be seized for</p> <p>9 evidence or what.</p> <p>10 Q. Do you know?</p> <p>11 A. I do not know.</p> <p>12 Q. Did you personally see the physical piece</p> <p>13 of paper?</p> <p>14 A. I seen the color of it. And I could tell</p> <p>15 it was a Missouri title. It was green.</p> <p>16 Q. Did you personally review the document at</p> <p>17 the scene?</p> <p>18 A. No.</p> <p>19 Q. Have you ever personally reviewed the</p> <p>20 document?</p> <p>21 A. No.</p> <p>22 Q. Did you and Officer Gerholdt ultimately</p> <p>23 allow Ms. Elmore and Mr. Mackenzie to physically</p> <p>24 take the Harley Davidson away from Mr. Thompson's</p> <p>25 private property?</p> | <p style="text-align: right;">54</p> <p>1 MS. ROBERTSON: Objection. Object to</p> <p>2 form, assumes facts not in evidence, misstates the</p> <p>3 evidence, calls for a legal conclusion, calls for</p> <p>4 speculation.</p> <p>5 Q. (BY MR. GELFAND) You can answer the</p> <p>6 question.</p> <p>7 A. No. I didn't make the call.</p> <p>8 Q. Who did?</p> <p>9 A. It would have been Sergeant Waters, who</p> <p>10 Officer Gerholdt was on the phone with.</p> <p>11 Q. Was Sergeant Waters physically present?</p> <p>12 A. The second time. Yes.</p> <p>13 Q. I'm talking about the first time.</p> <p>14 A. Nope.</p> <p>15 Q. And just to be clear, before there was a</p> <p>16 second time, the motorcycle left the premises,</p> <p>17 right?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. So I want to stay focused, for</p> <p>20 now -- we'll get to the second time. But I want to</p> <p>21 stay focused right now on this incident where</p> <p>22 you-all are in the back yard, with Ms. Elmore and</p> <p>23 Mr. Mackenzie, determining what to do with the</p> <p>24 motorcycle.</p> <p>25 A. Fair enough.</p> |
| <p style="text-align: right;">55</p> <p>1 Q. I'm going to show you Exhibit -- what I'm</p> <p>2 going to mark as Exhibit 4, please.</p> <p>3 (WHEREIN, Plaintiff's Exhibit No. 4 was</p> <p>4 marked for identification.)</p> <p>5 MS. ROBERTSON: Did we -- we're skipping</p> <p>6 3?</p> <p>7 MR. GELFAND: Yeah. We'll get to 3.</p> <p>8 MS. ROBERTSON: Okay.</p> <p>9 Q. (BY MR. GELFAND) Do you have Exhibit 4 in</p> <p>10 front of you?</p> <p>11 A. I do.</p> <p>12 Q. Does Exhibit 4 appear to be a Manchester</p> <p>13 Police Department Investigative, slash, Offense</p> <p>14 Report?</p> <p>15 A. Yes.</p> <p>16 Q. And do you see where it references the</p> <p>17 Thompson residence at 1209 Cottagemill Drive in</p> <p>18 Manchester, Missouri?</p> <p>19 A. Yes.</p> <p>20 Q. And the date that you're testifying about,</p> <p>21 10/22/22?</p> <p>22 A. You said ten what?</p> <p>23 Q. 22/22. It says occurred on.</p> <p>24 A. Yes.</p> <p>25 Q. And if there may be some confusion, the</p> | <p style="text-align: right;">56</p> <p>1 report date --</p> <p>2 A. The report date --</p> <p>3 Q. -- would be the following morning. But it</p> <p>4 was essentially just after midnight.</p> <p>5 A. Yep.</p> <p>6 Q. Right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Now, you testified that you have</p> <p>9 not actually reviewed this report; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. I just want to ask you a couple questions,</p> <p>12 though.</p> <p>13 A. Uh-huh.</p> <p>14 Q. If we go to page -- do you see the Bates</p> <p>15 numbers at the bottom? Meaning just numbers --</p> <p>16 A. Yep.</p> <p>17 Q. -- that are on here. It says MPD No. 3?</p> <p>18 A. Yep. Want me to go to 3?</p> <p>19 Q. Yep.</p> <p>20 A. Okay.</p> <p>21 Q. Do you see where it references a 2003</p> <p>22 Harley Davidson trike, then a VIN number</p> <p>23 specifically identified there, beginning with 1HD?</p> <p>24 A. Yes.</p> <p>25 Q. Black in color?</p> |

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15 (Pages 57 to 60)

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| <p style="text-align: right;">57</p> <p>1 A. Yes.</p> <p>2 Q. To state the obvious, was that the Harley</p> <p>3 Davidson that was parked in Mr. Thompson's privacy</p> <p>4 gated enclosure?</p> <p>5 A. Yes.</p> <p>6 Q. Now, this says, and I recognize that</p> <p>7 Mr. Gerholdt was the author of this, not you, that</p> <p>8 Ms. Elmore and Mr. Mackenzie, quote, were in</p> <p>9 possession of the motorcycle key, end quote. Do you</p> <p>10 know anything about that?</p> <p>11 A. I think that's -- they had to use</p> <p>12 something to start it.</p> <p>13 Q. Did you ever see a key?</p> <p>14 A. I did not. I didn't see one, but it was</p> <p>15 the only way that the motorcycle could have been</p> <p>16 started.</p> <p>17 Q. Are you aware that some vehicles don't</p> <p>18 actually need a key, to be started?</p> <p>19 A. Yeah.</p> <p>20 Q. Do you know whether this motorcycle is</p> <p>21 started with a key or a toggle switch?</p> <p>22 A. I'd say a key.</p> <p>23 Q. Based on what?</p> <p>24 A. Based on just looking -- it was dark.</p> <p>25 Just looking at it from the -- from the distance, it</p> | <p style="text-align: right;">58</p> <p>1 had to be started with a key. It was an older</p> <p>2 motorcycle. It wasn't like a newer one -- newer</p> <p>3 vehicle, where it would be push to start.</p> <p>4 MR. GELFAND: I'm going to mark this --</p> <p>5 I'm going to complicate things, for a second,</p> <p>6 because I have some other premarked exhibits. Let's</p> <p>7 mark this as Exhibit 15.</p> <p>8 (WHEREIN, Plaintiff's Exhibit No. 15 was</p> <p>9 marked for identification.)</p> <p>10 MS. ROBERTSON: Fifteen?</p> <p>11 MR. GELFAND: Yeah.</p> <p>12 MS. ROBERTSON: Okay.</p> <p>13 Q. (BY MR. GELFAND) Do you have Exhibit 15</p> <p>14 in front of you?</p> <p>15 A. Yes.</p> <p>16 Q. Have you ever seen this part of the</p> <p>17 motorcycle, in particular, the ignition?</p> <p>18 A. No. To me, it looks like gas, on and off.</p> <p>19 Q. If I were to represent to you that this is</p> <p>20 a toggle switch, that starts the motorcycle, in lieu</p> <p>21 of a key, would you have any reason to disagree with</p> <p>22 me?</p> <p>23 MS. ROBERTSON: Objection, calls for</p> <p>24 speculation. You can answer if you know.</p> <p>25 A. I guess it possibly could be used as one.</p> |
| <p style="text-align: right;">59</p> <p>1 I've never seen one.</p> <p>2 Q. (BY MR. GELFAND) Did you bother looking</p> <p>3 that night?</p> <p>4 MS. ROBERTSON: Objection, argumentative.</p> <p>5 MR. GELFAND: I'll rephrase it.</p> <p>6 Q. (BY MR. GELFAND) Did you look that night?</p> <p>7 A. No.</p> <p>8 Q. If we look back at the police report,</p> <p>9 Exhibit 4, it says, Mackenzie then started the</p> <p>10 vehicle with the key and was able to get it out</p> <p>11 through the open gate and around the Jeep.</p> <p>12 To be clear, you don't know whether that's</p> <p>13 true or not true, as far as how Mackenzie started</p> <p>14 the motorcycle, correct?</p> <p>15 A. Correct.</p> <p>16 Q. The next sentence says, Elmore and</p> <p>17 Mackenzie were then allowed to leave. Did I read</p> <p>18 that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. Is that a true statement?</p> <p>21 A. Yes.</p> <p>22 Q. And to be clear, when you say they were</p> <p>23 then allowed to leave, meaning they were allowed to</p> <p>24 leave with the motorcycle, by Manchester police,</p> <p>25 correct?</p> | <p style="text-align: right;">60</p> <p>1 A. Yes.</p> <p>2 MS. ROBERTSON: Objection,</p> <p>3 mischaracterizes the evidence, assumes facts not in</p> <p>4 evidence.</p> <p>5 Q. (BY MR. GELFAND) Is that what happened or</p> <p>6 is that not what happened?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Now, if we look back to Exhibit 2,</p> <p>9 that's General Order No. 441. If we go to the</p> <p>10 second page, Bates No. 151. It says, repossessions</p> <p>11 may legally be carried out, based on the terms of</p> <p>12 the lender's contract or with a court order.</p> <p>13 To be clear, would you agree with me that</p> <p>14 no one ever claimed there was a lender's contract?</p> <p>15 A. Yes.</p> <p>16 Q. And you previously testified that there</p> <p>17 was no court order, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Would you also agree with me that there</p> <p>20 was no traditional company, like a repossession</p> <p>21 company, performing a repossession?</p> <p>22 A. Yes.</p> <p>23 Q. Just to be clear, is it your testimony</p> <p>24 that what you did that night and what you observed</p> <p>25 Officer Gerholdt do that night, was consistent with</p> |

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16 (Pages 61 to 64)

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| <p style="text-align: right;">61</p> <p>1 General Order No. 441?</p> <p>2 A. Yes.</p> <p>3 Q. Even though you previously agreed with me</p> <p>4 that you're supposed to defer to a court, not make a</p> <p>5 decision yourself, right?</p> <p>6 A. Correct. But not every case or call is</p> <p>7 going to be in direct with all the policies and</p> <p>8 procedures.</p> <p>9 Q. So I want to clarify this, because it's</p> <p>10 important. Is it your testimony that what you did</p> <p>11 was consistent with General Order 441? Or that 441</p> <p>12 didn't apply, because of the facts and</p> <p>13 circumstances?</p> <p>14 A. I'd say it was consistent.</p> <p>15 Q. How? Based on everything we just talked</p> <p>16 about?</p> <p>17 A. There to keep the peace. I'd say it was</p> <p>18 inconsistent, because -- or it was consistent,</p> <p>19 because the owner, the daughter's owner, showed up</p> <p>20 with a piece of paper, that was stating it was</p> <p>21 theirs. There was nothing that was saying that the</p> <p>22 bike was supposed to stay where it was at.</p> <p>23 Q. Well, you had never -- by the time the</p> <p>24 bike left, had you ever spoken with Mr. Thompson?</p> <p>25 A. I have not -- I did not.</p> | <p style="text-align: right;">62</p> <p>1 Q. And by the time that the bike left his</p> <p>2 property, was it your understanding that</p> <p>3 Mr. Gerholdt has never -- Officer Gerholdt has never</p> <p>4 spoken with Mr. Thompson?</p> <p>5 A. My understanding, yes.</p> <p>6 Q. So to be clear, did you-all determine</p> <p>7 ownership of the bike, without ever speaking with</p> <p>8 Mr. Thompson?</p> <p>9 A. I did not determine anything.</p> <p>10 Q. Did Officer Gerholdt?</p> <p>11 MS. ROBERTSON: Objection, calls for</p> <p>12 speculation.</p> <p>13 A. Yes.</p> <p>14 Q. (BY MR. GELFAND) And he communicated that</p> <p>15 to you, correct?</p> <p>16 A. Say that again.</p> <p>17 Q. And he communicated that to you, correct?</p> <p>18 Officer Gerholdt told you that, correct?</p> <p>19 A. Yeah.</p> <p>20 Q. Now, if we look at General Order No. 456.</p> <p>21 MR. GELFAND: I'm going to mark that --</p> <p>22 what are we on, 3?</p> <p>23 MS. ROBERTSON: I don't think 3's been --</p> <p>24 MR. GELFAND: Yeah.</p> <p>25 (WHEREIN, Plaintiff's Exhibit No. 3 was</p> |
| <p style="text-align: right;">63</p> <p>1 marked for identification.)</p> <p>2 Q. (BY MR. GELFAND) Can you tell me if you</p> <p>3 recognize -- well, first of all, do you have Exhibit</p> <p>4 3 in front of you?</p> <p>5 A. I do.</p> <p>6 Q. Do you recognize Exhibit 3?</p> <p>7 A. Yes.</p> <p>8 Q. What is Exhibit 3?</p> <p>9 A. It's a policy for towed vehicles and</p> <p>10 vehicle property lockouts.</p> <p>11 Q. And is this the other general order</p> <p>12 number, that you referenced in Interrogatory No. 11?</p> <p>13 A. Yes.</p> <p>14 Q. Was this general order effective June of</p> <p>15 2020? At least per the document?</p> <p>16 A. Yes.</p> <p>17 Q. Meaning that's the date that it went into</p> <p>18 effect, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And did you have a copy of this, prior to</p> <p>21 October of 2022, when you went to Mr. Thompson's</p> <p>22 house?</p> <p>23 A. I did not have it up and looking at it,</p> <p>24 before I went there. No. But I have a copy of it</p> <p>25 on my zip drive. Yes.</p> | <p style="text-align: right;">64</p> <p>1 Q. Had you been provided a copy of this?</p> <p>2 A. Yes.</p> <p>3 Q. Prior to that date?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. This general order number</p> <p>6 establishes procedures, according to the purpose,</p> <p>7 for performing vehicle lockouts and towing of</p> <p>8 vehicles from the public right-of-way and from</p> <p>9 private property, as authorized by Missouri state</p> <p>10 statute; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Just to be clear, in this case, were you</p> <p>13 performing a vehicle lockout?</p> <p>14 A. No.</p> <p>15 Q. What is a vehicle lockout?</p> <p>16 A. A vehicle lockout is when someone locks</p> <p>17 their keys in the car and they call the police</p> <p>18 department, to help get into it.</p> <p>19 Q. In other words, if there's no dispute that</p> <p>20 I'm driving my own car and I go to the market --</p> <p>21 A. Correct.</p> <p>22 Q. -- and I leave the keys in the car --</p> <p>23 A. Yes.</p> <p>24 Q. -- you might be able to assist me in</p> <p>25 getting back in the car?</p> |

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17 (Pages 65 to 68)

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| <p style="text-align: right;">65</p> <p>1 A. Correct.</p> <p>2 Q. Were you towing a vehicle from a public</p> <p>3 right-of-way or from private property, in this case?</p> <p>4 A. No.</p> <p>5 Q. Did you cause the vehicle to be removed to</p> <p>6 a garage designated or maintained by the City of</p> <p>7 Manchester?</p> <p>8 A. No.</p> <p>9 Q. If we go to policy, on Page 2, Bates No.</p> <p>10 819, do you see where it says, an officer may remove</p> <p>11 or cause to be removed any vehicle from a street,</p> <p>12 highway, public or private property, to the nearest</p> <p>13 garage or other place of safety or to a garage</p> <p>14 designated or maintained by the City of Manchester,</p> <p>15 under any of the below described circumstances,</p> <p>16 after it is determined that there is no other way to</p> <p>17 safely remove the vehicle. Did I read that</p> <p>18 correctly?</p> <p>19 A. Yes.</p> <p>20 Q. Would you agree with me that none of that</p> <p>21 is what happened here?</p> <p>22 A. Yes.</p> <p>23 Q. Did you complete an MPD Form 003 and</p> <p>24 forward the form to Mr. Thompson's last known</p> <p>25 address?</p> | <p style="text-align: right;">66</p> <p>1 A. I did not.</p> <p>2 Q. If we look at Page 4, Bates No. 821, would</p> <p>3 you say -- under V, do you see where it says, if the</p> <p>4 vehicle owner is not present or aware of when the</p> <p>5 vehicle is towed, the officer will complete a MPD</p> <p>6 Form 003 and forward it to the last known address of</p> <p>7 the owner.</p> <p>8 A. Correct.</p> <p>9 Q. The truth is, you-all didn't tow the</p> <p>10 Harley Davidson, correct?</p> <p>11 A. No.</p> <p>12 Q. And to state the obvious, did you complete</p> <p>13 a Missouri DOR Form 4569, referenced in Subsection</p> <p>14 D, which you're supposed to do, when there's an</p> <p>15 inventory made and a vehicle is towed?</p> <p>16 A. No.</p> <p>17 Q. Would you agree with me that everything</p> <p>18 you did, in this case, was inconsistent with order</p> <p>19 number 456 or that it wasn't applicable?</p> <p>20 A. It was --</p> <p>21 MS. ROBERTSON: Objection. Hold on.</p> <p>22 THE WITNESS: Sorry.</p> <p>23 MS. ROBERTSON: Assumes facts not in</p> <p>24 evidence, calls for a legal conclusion, calls for</p> <p>25 speculation. You can answer if you know.</p> |
| <p style="text-align: right;">67</p> <p>1 Q. (BY MR. GELFAND) Is it your testimony --</p> <p>2 I'll rephrase the question.</p> <p>3 Is it your testimony that you acted</p> <p>4 consistently with General Order No. 456, that we</p> <p>5 just walked through?</p> <p>6 A. Yes.</p> <p>7 Q. How?</p> <p>8 A. I didn't -- I didn't tow a vehicle. But</p> <p>9 if I did, that would have been the procedure that I</p> <p>10 would have went through.</p> <p>11 Q. So is it your testimony, more accurately,</p> <p>12 that 456 just doesn't apply?</p> <p>13 A. Correct.</p> <p>14 Q. Would you agree with me that when law</p> <p>15 enforcement tows a vehicle, the vehicle ends up in</p> <p>16 what is effectively a law enforcement tow lot, so it</p> <p>17 is secure?</p> <p>18 A. I wouldn't say a law enforcement tow yard.</p> <p>19 I would say a tow yard that we trust and deal with.</p> <p>20 Q. Let me ask it a different way. If my car</p> <p>21 is towed away --</p> <p>22 A. Yeah.</p> <p>23 Q. -- and I believe it's wrong and I get a</p> <p>24 court order saying that I'm entitled to get my car</p> <p>25 back --</p> | <p style="text-align: right;">68</p> <p>1 A. Uh-huh.</p> <p>2 Q. -- it's at a place where I can get it</p> <p>3 immediately, upon delivery of the court order,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 MS. ROBERTSON: Object to form, calls for</p> <p>7 a legal conclusion, calls for speculation.</p> <p>8 Q. (BY MR. GELFAND) Would you agree with me</p> <p>9 that Mr. Thompson's Harley Davidson was not</p> <p>10 maintained at a place, when it was removed from his</p> <p>11 property, that law enforcement trusts?</p> <p>12 A. I have no idea.</p> <p>13 Q. Do you know where it went?</p> <p>14 A. No.</p> <p>15 Q. Sitting here today, do you know how long</p> <p>16 Mr. Thompson had lost his possession and use of the</p> <p>17 vehicle?</p> <p>18 A. No.</p> <p>19 Q. Did you ever try to find out?</p> <p>20 A. No.</p> <p>21 Q. Did you ever physically touch the Harley</p> <p>22 Davidson, at any time?</p> <p>23 A. No.</p> <p>24 Q. At all times that you were at</p> <p>25 Mr. Thompson's house and dealing with the</p> |

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18 (Pages 69 to 72)

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| <p style="text-align: right;">69</p> <p>1 motorcycle, including in his what I'm calling his 2 back yard, but inside his privacy fence, were you, 3 at all times, on duty, as a law enforcement officer? 4 A. Yes. 5 Q. Help me understand something. 6 Approximately how much time had passed, from the 7 time you arrived at Mr. Thompson's house to the time 8 that the motorcycle or Harley Davidson left the 9 house? 10 A. That's my -- my guesstimated time would be 11 20 minutes. 12 Q. So is -- is that encompassing the 20 to 25 13 minute -- 14 A. Correct. 15 Q. -- estimate that you wrote in your 16 interrogatories? 17 A. Correct. 18 Q. And during that entire time period, there 19 was no communication with Mr. Thompson, correct? 20 A. Correct. 21 Q. And during that entire time period, as you 22 testified, Officer Gerholdt and -- was it 23 Sergeant Waters? 24 A. Yes. 25 Q. And that's the supervisor?</p> | <p style="text-align: right;">70</p> <p>1 A. Yes. 2 Q. Effectively decided, on the spot, that 3 Ms. Elmore and Mr. Mackenzie should be permitted to 4 leave with the motorcycle, correct? 5 MS. ROBERTSON: Objection, calls for 6 speculation, mischaracterizes the evidence, assumes 7 facts not in evidence. 8 Q. (BY MR. GELFAND) Is that correct or is 9 that not correct? 10 A. I'd assume. Yes. 11 Q. Because that was communicated to you? 12 A. It was never communicated to me. It just 13 -- they were talking on the phone and afterwards, 14 the motorcycle was released to him. 15 Q. By Officer Gerholdt? 16 A. By Officer Gerholdt. Correct. 17 Q. And let's be clear about something. It's 18 not like these -- I mean, you tell me. It's not 19 like Ms. Elmore and Mr. Mackenzie just drove off 20 with the motorcycle and then you all engaged in 21 pursuit, because they stole it, right? 22 A. No. 23 Q. They left with the permission of law 24 enforcement? 25 A. Correct.</p> |
| <p style="text-align: right;">71</p> <p>1 MS. ROBERTSON: Object -- 2 MR. GELFAND: Okay. 3 MS. ROBERTSON: Objection, calls for a 4 legal conclusion, assumes facts not in evidence, 5 calls for speculation. 6 Q. (BY MR. GELFAND) Was that your 7 understanding? 8 A. Yes. 9 Q. And you were there, correct? 10 A. Yes. 11 Q. And at all times, with respect to 12 Mr. Thompson's house and your police work, you and 13 Officer Gerholdt arrived in marked police cars, each 14 of you is wearing a police -- police uniform, each 15 of you had a badge, and each of you had a sidearm, 16 correct? 17 A. Yes. 18 Q. Would you agree with me that with the 19 benefit of hindsight, knowing what you know now, law 20 enforcement made the wrong decision here? 21 MS. ROBERTSON: Objection, calls for 22 speculation, assumes facts not in evidence, 23 misstates the evidence, calls for a legal 24 conclusion. 25 Q. (BY MR. GELFAND) You can answer.</p> | <p style="text-align: right;">72</p> <p>1 A. Say it again? 2 Q. Would you agree with me that -- 3 MR. GELFAND: You don't have to restate 4 your objections. 5 MS. ROBERTSON: Okay. Thank you. 6 Q. (BY MR. GELFAND) With the benefit of 7 hindsight, law enforcement made the wrong decision 8 here? 9 A. I'd say with information provided and 10 given at that time, we made the right decision. 11 Q. What was the information given at the 12 time, that leads you to that conclusion? 13 A. That Nathan Rench was the owner of the 14 motorcycle. 15 Q. Do you know, sitting here today, what the 16 relationship, if any, is between Nathan Rench and 17 Amara Elmore? 18 A. I do not. 19 Q. Do you know, sitting here today, what the 20 relationship is, if any, between Nathan Rench and 21 Mr. Mackenzie? 22 A. No. 23 Q. Don't you think that's important? 24 A. For the -- 25 MS. ROBERTSON: Object -- objection --</p> |

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19 (Pages 73 to 76)

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| <p style="text-align: right;">73</p> <p>1 object to form, vague, calls for speculation. 2 Q. (BY MR. GELFAND) You can answer the 3 question. 4 A. I'd say it would be important, for the 5 primary officer that was doing the report. 6 Q. Who was that? 7 A. Officer Gerholdt. 8 Q. I'm going to show you Exhibit -- what I'm 9 going to mark as Exhibit 5. 10 (WHEREIN, Plaintiff's Exhibit No. 5 was 11 marked for identification.) 12 Q. (BY MR. GELFAND) Do you have Exhibit 5 in 13 front of you? 14 A. Yes. 15 Q. Exhibit 5 is not -- well, let's back up. 16 Is Exhibit 5 another general order? This 17 one, No. 425? 18 A. Yes. 19 Q. And was this effective, prior to this 20 incident on May of 2020? 21 A. Yes. 22 Q. Exhibit 5 was not a general order number 23 that you referenced in your interrogatory response, 24 correct? 25 A. Correct.</p> | <p style="text-align: right;">74</p> <p>1 Q. If you look at Exhibit 5 -- are you 2 familiar with Exhibit 5? 3 A. I am. 4 Q. Exhibit 5 applies to search warrants and 5 warrant list searches, correct? 6 A. Yes. 7 Q. Exhibit 5 lists out a whole series of 8 procedural requirements, when Manchester police is 9 involved in applying for and executing a search 10 warrant, correct? 11 A. Correct. 12 Q. There's various operations, plans, and 13 things like that, that have to be followed, correct? 14 A. Correct. 15 Q. None of that applied here, because you 16 testified you weren't executing a search warrant, 17 correct? 18 A. Correct. 19 Q. If we look at Page 5, Section 425.06, 20 Warrant List Searches. Do you see a list of 21 circumstances whereby warrant list searches are, 22 quote, most often encountered and authorized, end 23 quote? 24 A. Yes. 25 Q. Would you agree with me that none of that</p> |
| <p style="text-align: right;">75</p> <p>1 applied to your conduct here? 2 MS. ROBERTSON: Objection, calls for 3 speculation, calls for a legal conclusion. 4 A. Yes. 5 Q. (BY MR. GELFAND) And when you were in the 6 moment, you did not believe that you were conducting 7 a warrant list search, pursuant to any of those 8 examples in 425.06, correct? 9 MS. ROBERTSON: Same objection. 10 A. Yes. 11 Q. (BY MR. GELFAND) And on the last page of 12 this, it says -- in Section B, at the top of that 13 last page, it says, police officers must be able to 14 show that their search was based on probable cause 15 or their protective frisk was based on reasonable 16 suspicion and both were conducted in accordance with 17 the U.S. Constitution. 18 And then Section C2 says that all of that 19 needs to be documented, correct? 20 A. Correct. 21 Q. And you've been trained on that, in 22 connection with your everyday duties, as a law 23 enforcement officer, correct? 24 A. Yes. 25 Q. Because you would agree with me that</p> | <p style="text-align: right;">76</p> <p>1 reasonable suspicion and probable cause searches are 2 part of the bread and butter of daily work of law 3 enforcement, correct? 4 MS. ROBERTSON: You can answer. 5 Q. (BY MR. GELFAND) Is that true or not 6 true? 7 A. Yes. 8 Q. And none of that happened -- 9 A. In some cases. 10 Q. None of that happened here, correct? 11 MS. ROBERTSON: Object to form, vague. 12 Q. (BY MR. GELFAND) Is that correct? 13 A. Correct. 14 Q. And do you understand what I'm asking? 15 A. Yeah. 16 Q. Do you see at the bottom, where it says 17 this is distributed to all department personnel? 18 A. Uh-huh. 19 Q. Yes? 20 A. Yes. 21 Q. I'm sorry. I'm not trying to be rude, but 22 when you say uh-huh, it's hard for the court 23 reporter. 24 A. Yeah. I know. I know you need a yes or 25 no answer.</p> |

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20 (Pages 77 to 80)

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| <p style="text-align: right;">77</p> <p>1 Q. And so all department personnel would be 2 -- would include you and Officer Gerholdt, correct? 3 A. Yes. 4 Q. And Sergeant Waters, correct? 5 A. Yes. 6 Q. Now, prior to the bike leaving, in those 7 20 to 25 minutes, what, if anything, did you do 8 personally, to investigate the veracity of 9 Ms. Elmore's and Mr. Mackenzie's story? 10 A. None. 11 Q. So in that vein, is it fair to say that 12 you did not actually investigate who owned the bike, 13 based on records and financial documents? 14 A. Correct. 15 Q. That you did not speak to Mr. Thompson? 16 A. Is this Mr. Thompson? 17 Q. Yes. 18 A. The second time I did. 19 Q. Prior to the bike leaving? 20 A. Nope. Not prior. After the bike left. 21 Q. Yeah. But prior to the bike leaving, you 22 did not review the check that Mr. Thompson wrote to 23 Mr. Rench, two years earlier, buying the bike? 24 A. No. 25 Q. Meaning that's correct?</p> | <p style="text-align: right;">78</p> <p>1 A. Correct. 2 Q. That you did not investigate the actual 3 relationship, between Ms. Elmore and Mr. Mackenzie 4 and Nathan Rench? 5 A. Correct. 6 Q. That you did not obtain any documents, 7 from any third parties? 8 A. Correct. 9 Q. You did not, in any way, obtain 10 Mr. Thompson's side of the story, so to speak? 11 A. Correct. 12 Q. That the first time you attempted to talk 13 to Mr. Thompson about this was at approximately 14 11:30 p.m. by randomly knocking on his door when he 15 wasn't home, correct? 16 A. Correct. 17 Q. In other words, you never called him, 18 emailed him, anything along those lines, correct? 19 A. No. 20 Q. Are you aware that he's a longtime 21 resident of Manchester? 22 A. I did not know that. 23 Q. Is it fair to say you did not look on 24 case.net, at all, to see if there was any litigation 25 over the ownership of the bike?</p> |
| <p style="text-align: right;">79</p> <p>1 A. No. 2 Q. And is it fair to say that you did not -- 3 and remember, this is all prior to the bike leaving, 4 contact the Missouri Department of Revenue, to 5 attempt to obtain title information, regarding the 6 bike? 7 A. Not at 11:00 a.m. -- not at 11:00 p.m. at 8 night. 9 Q. What did you do, after Ms. Elmore and 10 Mr. Mackenzie were allowed, by law enforcement, to 11 leave with the bike? 12 MS. ROBERTSON: Objection, 13 mischaracterizes the testimony and evidence. You 14 can answer if you know. 15 A. I went in service. 16 Q. (BY MR. GELFAND) And just to be clear, in 17 kind of simple English, did you leave Mr. Thompson's 18 residence? 19 A. Yes. I left his residence. 20 Q. And by going in service, meaning you 21 responded to other calls or -- 22 A. Correct. 23 Q. -- went to the station or whatever it is 24 you did? 25 A. Correct.</p> | <p style="text-align: right;">80</p> <p>1 Q. Later that night, technically, the 2 following morning, but within a very short period of 3 time, did you, at any point, return to 4 Mr. Thompson's house? 5 A. Yes. 6 Q. Approximately when? 7 A. I don't -- I don't know the time, but I 8 know we went back there. 9 Q. When you say we went back there, who went 10 back there? 11 A. Officer Gerholdt was dispatched and then I 12 think I was dispatched, as the assist officer again. 13 Q. Were any other officers or employees of 14 the Manchester Police Department present? 15 A. Sergeant Waters responded later. 16 Q. Okay. So before we get to Sergeant Waters 17 responding later, is it fair that initially, the 18 same two officers, meaning you and Officer Gerholdt, 19 returned to the house? 20 A. Correct. 21 Q. Mr. Thompson's house? 22 A. Correct. 23 Q. Approximately how much time had passed 24 from the moment you left to the moment you were 25 dispatched to return?</p> |

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21 (Pages 81 to 84)

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| <p style="text-align: right;">81</p> <p>1 A. I couldn't tell you. I don't know. I 2 can't recall. 3 Q. Minutes? Hours? 4 A. I don't know. 5 Q. Okay. 6 A. I mean, it was right between my workout 7 time. So I couldn't tell you if it was before or 8 after. 9 Q. I didn't understand what you're saying. 10 Right between your workout time? 11 A. Yeah. I work out every day, when I'm on 12 duty at 11:30 to 12:30. Or if I'm on call, 12:30 to 13 1:30. So I couldn't tell you exactly what time that 14 day. 15 Q. Okay. But it was the same shift? 16 A. Yes. Same shift. 17 Q. Why did you return? 18 A. Because Mr. Thompson was wanting to report 19 his motorcycle stolen. 20 Q. And in fact, you're aware that 21 Mr. Thompson called the police? 22 A. Yes. 23 Q. Is it fair to say, as you understood it, 24 he comes home, he sees the motorcycle missing. He 25 has no clue what had previously transpired?</p> | <p style="text-align: right;">82</p> <p>1 A. Correct. 2 MS. ROBERTSON: Objection, calls for 3 speculation. 4 A. Yes. 5 Q. (BY MR. GELFAND) When you return, who 6 arrives first, from law enforcement? 7 A. Officer Gerholdt. 8 Q. And approximately how soon thereafter did 9 you arrive? 10 A. I'd say minutes. 11 Q. What happened, when you arrived back at 12 Mr. Thompson's residence? Let's back up. I'm 13 sorry. 14 When you arrived back at Mr. Thompson's 15 residence, you're in your same police vehicle, same 16 police uniform? 17 A. Yes. 18 Q. Did you activate your dash cam? 19 A. No. 20 Q. Did you activate your body cam? 21 A. No. 22 Q. At that time, were you responding to a 23 theft of a motor vehicle call? 24 A. Yes. 25 Q. So why didn't you activate your body cam</p> |
| <p style="text-align: right;">83</p> <p>1 or dash cam? 2 A. Because we were there previously. So we 3 had history there. We knew what had happened. 4 Q. What happened, when you showed up? 5 A. Mr. Thomas (sic) was furious and outraged 6 that his motorcycle wasn't there. When I -- 7 Q. Let's back up for a second. When you 8 arrived, did you exit your police vehicle? 9 A. Yes. 10 Q. Where did you make contact with 11 Mr. Thompson? 12 A. On his front porch. 13 Q. Was he waiting for you? 14 A. I think he was -- he was already talking 15 to Officer Gerholdt. 16 Q. What, if anything, did Mr. Thompson convey 17 to you? 18 A. He just said it was -- he was angry -- 19 upset. It was bull crap. His motor -- we let 20 somebody take his motorcycle. He was also on the 21 phone, with another police department agency, 22 because I heard the dispatch on the phone. 23 And then he proceeded to go in and get the 24 original title for the bike, which he gave to me, 25 and I provided it to Officer Gerholdt.</p> | <p style="text-align: right;">84</p> <p>1 Q. And you reviewed the documents that 2 Mr. Thompson provided you, correct? 3 A. Correct. 4 Q. And what did those reveal? 5 A. They revealed that he was the owner of the 6 bike, possibly. But it was never registered to him. 7 Q. Let's back up. Is it fair to say that -- 8 let's back up. 9 Before Mr. Thompson went into his house, 10 to go retrieve documents, which we'll get to, in a 11 second, what, if anything, did you tell Mr. Thompson 12 about what had transpired? 13 A. I didn't tell him anything. He was 14 already on the phone. 15 Q. What, if anything, did Officer Gerholdt 16 tell Mr. Thompson in your presence? 17 A. I have no idea. 18 Q. What, if anything, did Mr. Thompson say, 19 in your presence, either to you or to 20 Officer Gerholdt, before he went into the house? 21 I'm just trying to break up what happened when. 22 A. And I said that already, I thought. He 23 just said that his motorcycle was gone and he had to 24 go in and get the title. 25 Q. And did you permit him to go in and get</p> |

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22 (Pages 85 to 88)

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| <p style="text-align: right;">85</p> <p>1 the title?</p> <p>2 A. I didn't stop him. Yeah.</p> <p>3 Q. But --</p> <p>4 A. He wasn't --</p> <p>5 Q. -- to be blunt, that made sense, right?</p> <p>6 To have him go get the title?</p> <p>7 A. I mean, if he wanted to get the title, to</p> <p>8 show proof, yeah.</p> <p>9 Q. Is it fair to say you guys welcomed that?</p> <p>10 A. Huh?</p> <p>11 Q. You guys welcomed that?</p> <p>12 A. You say welcomed that?</p> <p>13 Q. Yeah. You welcomed him to go inside the</p> <p>14 house, to go get the title and show you proof.</p> <p>15 A. I mean, he was -- he wasn't detained or</p> <p>16 anything. He was free to do whatever he wanted.</p> <p>17 Q. Well, did you want to see the title?</p> <p>18 A. Did I?</p> <p>19 Q. Yeah.</p> <p>20 A. I mean, I was curious, yeah, at the time.</p> <p>21 Q. I'm going to mark as Exhibit 6 a series of</p> <p>22 documents.</p> <p>23 (WHEREIN, Plaintiff's Exhibit No. 6 was</p> <p>24 marked for identification.)</p> <p>25 MS. ROBERTSON: Thanks.</p> | <p style="text-align: right;">86</p> <p>1 Q. (BY MR. GELFAND) Can you please tell me</p> <p>2 if you recognize Exhibit 6? I'll just make this</p> <p>3 very clear, for purposes of our record. The top</p> <p>4 page.</p> <p>5 A. I mean --</p> <p>6 Q. And the second page? In other words, back</p> <p>7 and front.</p> <p>8 A. This possibly could have been the title</p> <p>9 that Mr. Thompson provided me, that I gave</p> <p>10 Officer Gerholdt.</p> <p>11 Q. My question for you is was it or wasn't</p> <p>12 it? Just the top two pages, front and back.</p> <p>13 A. I believe this is. Yes.</p> <p>14 Q. Okay. And would you agree with me, if we</p> <p>15 look at the second page of this, MPD0029 at the</p> <p>16 bottom.</p> <p>17 A. Uh-huh.</p> <p>18 Q. Do you see that?</p> <p>19 A. Yeah.</p> <p>20 Q. That clearly indicates that Mr. Thompson</p> <p>21 purchased the motorcycle from Nathan Rench, correct?</p> <p>22 MS. ROBERTSON: Objection, calls for a</p> <p>23 legal conclusion. You can answer if you know.</p> <p>24 A. I'd say somebody purchased it from him.</p> <p>25 But what date did he purchase it on?</p> |
| <p style="text-align: right;">87</p> <p>1 Q. (BY MR. GELFAND) We'll get to that, in a</p> <p>2 second. But do you see where it says Ray Thompson</p> <p>3 as the purchaser and Nathan Rench as the seller?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. And do you see where it says date</p> <p>6 of sale?</p> <p>7 A. Yep.</p> <p>8 Q. And what does it say for date of sale?</p> <p>9 A. March 30th, 2020.</p> <p>10 Q. Would you agree that was approximately two</p> <p>11 and a half years prior to that date?</p> <p>12 A. Correct.</p> <p>13 Q. And this referred to a Harley Davidson</p> <p>14 2003, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And this was the same VIN number that</p> <p>17 we're talking about, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And if we go later on -- if we go to</p> <p>20 MPD0032, do you see a check, from Mr. Thompson to</p> <p>21 Mr. Key, paying off a lien in connection with this?</p> <p>22 A. I've never seen this.</p> <p>23 Q. Let's back up.</p> <p>24 A. I mean, I see the check, but who -- I</p> <p>25 don't know who Jim Key is.</p> | <p style="text-align: right;">88</p> <p>1 Q. Well, if we look at what Mr. Thompson gave</p> <p>2 you, in MPD0029, do you see Mr. Key as the lien</p> <p>3 release?</p> <p>4 A. Oh, lienholder.</p> <p>5 Q. Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And then finally, do you see a check from</p> <p>8 Mr. Thompson, on Page MPD0033, from Mr. Thompson to</p> <p>9 Nathan Rench, for the 2003 Harley Davidson Trike in</p> <p>10 the amount of \$2,366.37?</p> <p>11 A. Yes.</p> <p>12 Q. So is it fair to say that the first time</p> <p>13 you ever talked to Mr. Thompson, he provided you</p> <p>14 documents, within minutes, that at least on their</p> <p>15 face, establish his ownership of the Harley</p> <p>16 Davidson --</p> <p>17 MS. ROBERTSON: Objection, calls for --</p> <p>18 Q. (BY MR. GELFAND) -- that was parked in</p> <p>19 his back yard?</p> <p>20 MS. ROBERTSON: Calls for a legal</p> <p>21 conclusion.</p> <p>22 Q. (BY MR. GELFAND) Is that accurate?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Did that surprise you?</p> <p>25 MS. ROBERTSON: Objection, calls for</p> |

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23 (Pages 89 to 92)

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| <p style="text-align: right;">89</p> <p>1 speculation.</p> <p>2 A. It didn't surprise me.</p> <p>3 Q. (BY MR. GELFAND) Why not?</p> <p>4 A. Because I wasn't the officer making</p> <p>5 decisions on that call. So I provided it to the</p> <p>6 reporting officer.</p> <p>7 Q. When you provided it to Officer Gerholdt</p> <p>8 -- is that who you mean by the reporting officer?</p> <p>9 A. Correct.</p> <p>10 Q. When you provided it to Officer Gerholdt,</p> <p>11 what, if anything, did he say?</p> <p>12 A. I think, at that time, he had a supervisor</p> <p>13 respond. That's when Sergeant Waters responded.</p> <p>14 Q. Did Officer Gerholdt, when you handed this</p> <p>15 to him, say anything, at all, to you, about his</p> <p>16 reaction?</p> <p>17 A. No.</p> <p>18 Q. Then what happened at the house?</p> <p>19 A. When Officer Waters arrived on scene, I</p> <p>20 was told to leave.</p> <p>21 Q. You were told to leave by who?</p> <p>22 A. By Officer -- by Sergeant Waters.</p> <p>23 Q. Did you observe Sergeant Waters engage in</p> <p>24 any communication with Mr. Thompson?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">90</p> <p>1 Q. Describe, if you would, what you observed.</p> <p>2 A. I -- I couldn't tell you. My window was</p> <p>3 rolled up. But I just seen him walking up towards</p> <p>4 the front of his residence, where Mr. Thompson was.</p> <p>5 And I assumed they were talking.</p> <p>6 Q. But you couldn't hear anything?</p> <p>7 A. Nope.</p> <p>8 Q. Did you hear Mr. -- I'm sorry,</p> <p>9 Sergeant Waters -- is that his title, sergeant?</p> <p>10 A. Uh-huh.</p> <p>11 Q. Sergeant Waters engage in any</p> <p>12 communication with Officer Gerholdt?</p> <p>13 A. I did not hear.</p> <p>14 Q. Did you and Officer Gerholdt ever</p> <p>15 subsequently discuss what had happened?</p> <p>16 A. No.</p> <p>17 Q. Ever?</p> <p>18 A. No.</p> <p>19 Q. So at no point back at the station or a</p> <p>20 day or two later or weeks later?</p> <p>21 A. No. Because he was -- he was tied up on</p> <p>22 trying to get it solved.</p> <p>23 Q. To get what solved?</p> <p>24 A. To get the case solved or whatever they</p> <p>25 did afterwards. I couldn't tell you. I distanced</p> |
| <p style="text-align: right;">91</p> <p>1 myself from it. He was working with detectives and</p> <p>2 the supervisor.</p> <p>3 Q. For how long?</p> <p>4 MS. ROBERTSON: Objection, calls for</p> <p>5 speculation.</p> <p>6 A. I couldn't tell you.</p> <p>7 Q. (BY MR. GELFAND) Did he ever ask your</p> <p>8 assistance?</p> <p>9 A. No.</p> <p>10 Q. Did anyone else ever ask for your</p> <p>11 assistance?</p> <p>12 A. No.</p> <p>13 Q. I'm going to show you what I am marking as</p> <p>14 Exhibit 7.</p> <p>15 (WHEREIN, Plaintiff's Exhibit No. 7 was</p> <p>16 marked for identification.)</p> <p>17 Q. (BY MR. GELFAND) Do you have Exhibit 7 in</p> <p>18 front of you?</p> <p>19 A. I do.</p> <p>20 Q. Does Exhibit 7 appear to be an email from</p> <p>21 me to a bunch of lawyers and to police at</p> <p>22 manchestermo.gov?</p> <p>23 MS. ROBERTSON: Hold on. I'm just going</p> <p>24 to object to questioning on this. Lack of</p> <p>25 foundation. This officer is not copied on this</p> | <p style="text-align: right;">92</p> <p>1 email. He's never seen it.</p> <p>2 MR. GELFAND: That's not what I'm asking,</p> <p>3 though.</p> <p>4 MS. ROBERTSON: This is asking for a legal</p> <p>5 conclusion. I'm just making my objection.</p> <p>6 MR. GELFAND: That's fine.</p> <p>7 A. I've never seen this.</p> <p>8 Q. (BY MR. GELFAND) Okay. That wasn't my</p> <p>9 question. Do you see an email address,</p> <p>10 police@manchestermo.gov at the top?</p> <p>11 A. Yes.</p> <p>12 Q. As the recipient of an email dated</p> <p>13 11/14/2022, at 9:29 a.m.?</p> <p>14 A. Yes.</p> <p>15 MS. ROBERTSON: And I don't want to -- I</p> <p>16 don't want to keep interrupting you. This whole</p> <p>17 line of questioning, same objection to foundation.</p> <p>18 Okay?</p> <p>19 MR. GELFAND: If you're asking whether you</p> <p>20 can have a standing objection, sure.</p> <p>21 MS. ROBERTSON: Yeah. I'm asking for a</p> <p>22 running objection.</p> <p>23 MR. GELFAND: Sure.</p> <p>24 A. I said yes.</p> <p>25 Q. (BY MR. GELFAND) Okay. Do you recognize</p> |

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24 (Pages 93 to 96)

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| <p style="text-align: right;">93</p> <p>1 that email address?</p> <p>2 A. I do not.</p> <p>3 Q. If you go to the second page, do you see a</p> <p>4 letter dated November 14th, 2022?</p> <p>5 A. Yes.</p> <p>6 Q. And is that the same date as the email?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know who Paul Rost is?</p> <p>9 A. No.</p> <p>10 Q. Do you know who Aaron Seal is?</p> <p>11 A. No.</p> <p>12 Q. Do you know who receives email at</p> <p>13 police@manchestermo.gov?</p> <p>14 A. It depends. Depends on who you click on.</p> <p>15 You can't just send it to mopolice.gov, because</p> <p>16 our -- our email don't work like that.</p> <p>17 Q. Is that your testimony?</p> <p>18 A. Yes.</p> <p>19 Q. So when an email is sent to that address,</p> <p>20 it sounds like you know about this. What happens?</p> <p>21 A. I would imagine it just goes to a blank</p> <p>22 folder.</p> <p>23 Q. Are you aware, and you may not be, but are</p> <p>24 you aware that that's the email address on the</p> <p>25 Manchester Police Department public website?</p> | <p style="text-align: right;">94</p> <p>1 A. It could be, but I'm not aware of it.</p> <p>2 Q. In this letter, do you see a request to</p> <p>3 preserve, meaning not destroy, body cam footage and</p> <p>4 dash cam footage, among other documents?</p> <p>5 A. Yes.</p> <p>6 Q. Have you ever seen this letter?</p> <p>7 A. No.</p> <p>8 Q. Did anyone in or after November 14th of</p> <p>9 2022, ask you to make any efforts to preserve</p> <p>10 evidence, in connection with this case?</p> <p>11 MS. ROBERTSON: Hold on. Hold on. Same</p> <p>12 objection as this running objection. But also</p> <p>13 because city attorneys are copied on this email, I</p> <p>14 have to object to attorney client privilege and work</p> <p>15 product. And I don't know what his answer is to</p> <p>16 this. So --</p> <p>17 THE WITNESS: I can answer?</p> <p>18 MS. ROBERTSON: Well, can we go off the</p> <p>19 record, for a second?</p> <p>20 MR. GELFAND: Sure.</p> <p>21 (WHEREIN, a discussion was held off the</p> <p>22 record.)</p> <p>23 (WHEREIN, a brief break was taken.)</p> <p>24 Q. (BY MR. GELFAND) Officer, we're back from</p> <p>25 a break. You understand you're still testifying</p> |
| <p style="text-align: right;">95</p> <p>1 under oath?</p> <p>2 A. Yes.</p> <p>3 Q. Officer, I don't really remember the last</p> <p>4 question I asked you. So we're going to strike it,</p> <p>5 if there was a question pending. And I want to just</p> <p>6 start right now.</p> <p>7 At -- without getting into any specific</p> <p>8 conversations that any lawyer representing you or</p> <p>9 the City of Manchester Police Department has had</p> <p>10 with you, has anyone on earth, prior to today, ever</p> <p>11 asked you to make any effort to personally preserve</p> <p>12 the items that are listed in Exhibit --</p> <p>13 A. Seven?</p> <p>14 Q. -- 7?</p> <p>15 A. No.</p> <p>16 Q. Okay. Now, I want to show you a couple of</p> <p>17 photos and mark -- I was just going to do this</p> <p>18 one-by-one, but I'll just give you a stack.</p> <p>19 MS. ROBERTSON: All right.</p> <p>20 MR. GELFAND: I'm going to mark this top</p> <p>21 photo as Exhibit 8.</p> <p>22 (WHEREIN, Plaintiff's Exhibit No. 8 was</p> <p>23 marked for identification.)</p> <p>24 Q. (BY MR. GELFAND) Just ask you the</p> <p>25 simplest question of the whole depo. Is that the</p> | <p style="text-align: right;">96</p> <p>1 house that you responded to, on the night of October</p> <p>2 22nd of 2022?</p> <p>3 A. Yes.</p> <p>4 Q. If we look at Exhibit 8, you testified</p> <p>5 earlier that when you arrived at the residence, you</p> <p>6 initially walked up, after some initial discussions,</p> <p>7 to the front door --</p> <p>8 A. Correct.</p> <p>9 Q. -- is that correct? And then you</p> <p>10 testified that you entered the -- and we'll get to</p> <p>11 some more detailed pictures, in a few minutes, but</p> <p>12 that you entered, basically, the gated back yard?</p> <p>13 Or gated enclosure of Mr. Thompson's residence,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. How did you physically walk into the back</p> <p>17 yard, if we look at this photo?</p> <p>18 A. I walked -- Officer Gerholdt took the left</p> <p>19 side and I walked on the right side.</p> <p>20 Q. Of what?</p> <p>21 A. The Jeep.</p> <p>22 Q. Okay. So you both walked down the</p> <p>23 driveway that's reflected -- there's only one</p> <p>24 driveway in this photo, correct?</p> <p>25 A. Correct.</p> |

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25 (Pages 97 to 100)

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| <p style="text-align: right;">97</p> <p>1 Q. You both walked down the driveway, 2 correct? 3 A. Correct. 4 Q. And -- I'll describe this in a second, for 5 the record. But Officer Gerholdt is on the left 6 side, where I just drew that arrow, correct? 7 A. Correct. 8 Q. Essentially the driver's side of the Jeep? 9 A. Uh-huh. 10 Q. And you're on the right side, the 11 passenger side of the Jeep. 12 A. Correct. 13 Q. Okay. And obviously, this was nighttime, 14 correct? 15 A. Correct. 16 (WHEREIN, Plaintiff's Exhibit No. 9 was 17 marked for identification.) 18 Q. (BY MR. GELFAND) I'm going to show you 19 Exhibit 9. Do you have Exhibit 9 in front of you? 20 A. Yep. Yes. 21 Q. Do you recognize who is depicted, at least 22 in part, in Exhibit 9? 23 A. Yes. 24 Q. And who is that? 25 A. Officer Gerholdt.</p> | <p style="text-align: right;">98</p> <p>1 Q. Now, if we look at Exhibit 9 and you have 2 a color copy, correct? 3 A. Correct. 4 Q. Do you see a -- first of all, is 5 Officer Gerholdt, in this exhibit, wearing a police 6 vest, that is virtually identical to the one you're 7 wearing today, in your deposition? 8 A. Correct. 9 Q. And it says Gerholdt and then his DSN 10 number, 5375? 11 A. Yes. 12 Q. Just to the left, in the photo, of where 13 it says Gerholdt, so to the right on his body, do 14 you see a device that appears to be a body camera? 15 A. Yes. 16 Q. And do you recognize what that device is, 17 based on your training and experience, as a 18 Manchester police officer? 19 A. Yes. 20 Q. Is that, in fact, a body camera? 21 A. Yes. 22 Q. And was that, in fact, generally speaking, 23 the make and model of the body cameras that were 24 assigned to you, on October 22nd of 2022? 25 A. Yes. Watchguard.</p> |
| <p style="text-align: right;">99</p> <p>1 Q. If we see the lighting that you previously 2 testified to -- 3 A. Uh-huh. 4 Q. -- would you agree with me that in 5 Exhibit 9 -- is that what this is? 6 A. Yep. 7 Q. Exhibit 9? That the body camera lights 8 for green and red are on? 9 A. I cannot answer that. Lighting. 10 Q. Meaning you cannot see, in that photo, 11 whether it appears to be on? 12 A. Correct. 13 Q. Okay. If, in fact, a jury were to find 14 that those lights are on, in that photo, as you 15 previously testified, does that indicate that it is 16 recording? 17 MS. ROBERTSON: Hold on. Objection. 18 Object to form, compound, vague, calls for 19 speculation, assumes facts not in evidence. 20 MR. GELFAND: I'll ask a different 21 question. 22 Q. (BY MR. GELFAND) If -- when the green 23 light and the red light, depicted in Exhibit 9, are 24 on, does that indicate it's recording? 25 A. Yes.</p> | <p style="text-align: right;">100</p> <p>1 Q. Okay. 2 (WHEREIN, Plaintiff's Exhibit No. 10 was 3 marked for identification.) 4 Q. (BY MR. GELFAND) I want to show you 5 Exhibit 10. Can you tell me -- ignoring what's 6 marked in blue, on Exhibit 10, if you recognize the 7 place depicted on Exhibit 10? 8 A. Say it -- repeat. 9 Q. Sure. Ignoring -- there's an X and an 10 O -- 11 A. Correct. 12 Q. -- on Exhibit 10 that appears to be 13 drawings. 14 A. Uh-huh. 15 Q. Ignoring that -- 16 A. Uh-huh. 17 Q. -- can you tell me if you recognize the 18 place, that is depicted on Exhibit 10? 19 A. Correct. 20 Q. And what is that place? 21 A. It looks like Mr. Thompson's back yard. 22 Q. And so to be clear, you've testified, 23 throughout the course of this deposition, that 24 certain events happened in a place, that you've 25 described as either Mr. Thompson's back yard or the</p> |

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26 (Pages 101 to 104)

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| <p style="text-align: right;">101</p> <p>1 enclosed back portion of his property, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Does Exhibit 10 depict that place?</p> <p>4 A. Yes.</p> <p>5 Q. In other words, that's where it happened,</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Sometimes, we lawyers make things</p> <p>9 unnecessarily complicated.</p> <p>10 A. Agree.</p> <p>11 Q. Where was the bike, when it was parked,</p> <p>12 before it was removed, when you and Officer Gerholdt</p> <p>13 first entered what is depicted in Exhibit 10?</p> <p>14 A. I'd say it would be right here, up by that</p> <p>15 water spot.</p> <p>16 Q. Can you draw it and initial it, on Exhibit</p> <p>17 10?</p> <p>18 A. (Complying.)</p> <p>19 Q. So just to be clear, so we have a clear</p> <p>20 record, you just, at my request, drew a circle. And</p> <p>21 I understand you're approximating. And then wrote</p> <p>22 JCC5349. I assume that's your DSN?</p> <p>23 A. Correct.</p> <p>24 Q. And JCC are your initials?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">102</p> <p>1 Q. Okay.</p> <p>2 MS. ROBERTSON: Can I -- I can't quite see</p> <p>3 what he drew, from here.</p> <p>4 MR. GELFAND: Sure.</p> <p>5 MS. ROBERTSON: Okay. Thanks.</p> <p>6 Q. (BY MR. GELFAND) So is it fair to say</p> <p>7 that the circle, that you depicted, represents</p> <p>8 approximately where the bike was parked?</p> <p>9 A. Approximately. Yes.</p> <p>10 Q. Okay. Would you agree with me that is</p> <p>11 clearly within the enclosed privacy fence?</p> <p>12 A. Yes.</p> <p>13 Q. I'm going to show you what I'm marking as</p> <p>14 Exhibit 11.</p> <p>15 (WHEREIN, Plaintiff's Exhibit No. 11 was</p> <p>16 marked for identification.)</p> <p>17 Q. (BY MR. GELFAND) I'm sorry. Before we</p> <p>18 get to Exhibit 11, if you go back to Exhibit 10.</p> <p>19 Where were you standing, when you observed</p> <p>20 Officer Gerholdt check the VIN number on this bike?</p> <p>21 A. On here?</p> <p>22 Q. Yes.</p> <p>23 A. I was standing at a vantage point. So I</p> <p>24 was probably right over here in this area, where I</p> <p>25 could still see the windows.</p> |
| <p style="text-align: right;">103</p> <p>1 Q. So right near the front right tire of the</p> <p>2 Jeep, that is currently depicted in the photo, even</p> <p>3 though there wasn't a Jeep there then?</p> <p>4 A. I'd say right -- about right there.</p> <p>5 Q. Can you put an X and initial that there?</p> <p>6 Just something to differentiate, though.</p> <p>7 A. (Complying.)</p> <p>8 Q. So just to be clear, for the record, the X</p> <p>9 followed by JCC5349, as opposed to the O followed by</p> <p>10 JCC5349, depicts where you were physically standing</p> <p>11 in the back yard?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. Clearly within the privacy fence,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And would you agree with me that if we</p> <p>17 look at the privacy fence, that's depicted in this</p> <p>18 photo, it's a fairly tall privacy fence?</p> <p>19 MS. ROBERTSON: Objection, calls for</p> <p>20 speculation, vague. Object to form.</p> <p>21 A. It depends on -- I mean, tall for me, yes,</p> <p>22 because I'm short. But for Officer Gerholdt, it</p> <p>23 would be short for him, because he's tall.</p> <p>24 Q. (BY MR. GELFAND) How tall are you?</p> <p>25 A. Five-seven.</p> | <p style="text-align: right;">104</p> <p>1 Q. Okay. If -- is it fair to say that when</p> <p>2 this is closed, you -- at five-seven, you can't see</p> <p>3 over the privacy fence?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. How tall is Officer Gerholdt?</p> <p>6 A. Six -- six-two, six-three, I think.</p> <p>7 Q. I'm going to leave this here. Now, if you</p> <p>8 look at Exhibit 11, do you have that in front of</p> <p>9 you?</p> <p>10 A. I do.</p> <p>11 Q. Now, I will represent to you that Exhibit</p> <p>12 11 represents a vantage point from -- essentially</p> <p>13 depicting the front of the gate from the driveway;</p> <p>14 is that accurate?</p> <p>15 A. Yes.</p> <p>16 Q. As opposed to the prior exhibits, which</p> <p>17 were from the other angle, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. To get to what is depicted on</p> <p>20 Exhibit 10, that you previously just testified to,</p> <p>21 did you have to cross the threshold of what is</p> <p>22 depicted, the fence, the gate, in Exhibit 11?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know anything about Harley</p> <p>25 Davidsons?</p> |

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27 (Pages 105 to 108)

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| <p style="text-align: right;">105</p> <p>1 A. No.</p> <p>2 Q. Based on everything you did, in connection</p> <p>3 with this case, do you have any firsthand knowledge</p> <p>4 about the particular make and model of the Harley</p> <p>5 Davidson, that you observed, on October 22nd of</p> <p>6 2022, and that Ms. Elmore and Mr. Mackenzie left</p> <p>7 with, on that date?</p> <p>8 MS. ROBERTSON: Object to form, vague.</p> <p>9 A. No.</p> <p>10 Q. (BY MR. GELFAND) For example, do you have</p> <p>11 any knowledge as to what the fair market value of it</p> <p>12 would be or anything along those lines?</p> <p>13 A. I do not.</p> <p>14 Q. Any knowledge about what it would cost to</p> <p>15 fix damage on it?</p> <p>16 A. No.</p> <p>17 Q. Are you a motorcycle guy?</p> <p>18 A. I'm not a Harley guy.</p> <p>19 Q. Are you another motorcycle guy?</p> <p>20 A. Crotch rockets.</p> <p>21 Q. Do you own any motorcycles?</p> <p>22 A. As of now, no.</p> <p>23 Q. Have you ever owned any motorcycles?</p> <p>24 A. Yes.</p> <p>25 Q. How many?</p> | <p style="text-align: right;">106</p> <p>1 A. Probably five or six.</p> <p>2 Q. Has it been a passion of yours?</p> <p>3 A. No.</p> <p>4 Q. Do you enjoy riding your motorcycles?</p> <p>5 A. Before I had my daughter, yes.</p> <p>6 Q. Meaning that -- putting aside safety</p> <p>7 concerns, it's fun?</p> <p>8 A. It is.</p> <p>9 Q. When you observed the Harley Davidson, in</p> <p>10 Mr. Thompson's back yard, on October 22nd of 2022,</p> <p>11 before it was removed, did you observe any custom</p> <p>12 parts on the vehicle?</p> <p>13 MS. ROBERTSON: Objection, calls for</p> <p>14 speculation.</p> <p>15 A. I -- no. I didn't pay attention to it.</p> <p>16 Q. (BY MR. GELFAND) Meaning you wouldn't</p> <p>17 have known, one way or the other?</p> <p>18 A. I mean, I would have known if I seen</p> <p>19 something custom on it, but no. I didn't pay</p> <p>20 attention to it.</p> <p>21 Q. Okay. So just to be clear, you're not</p> <p>22 saying that it didn't have any custom parts. You're</p> <p>23 just saying you didn't pay attention?</p> <p>24 A. Correct.</p> <p>25 Q. So it might have, it might not have?</p> |
| <p style="text-align: right;">107</p> <p>1 A. Correct.</p> <p>2 Q. How would you describe the condition of</p> <p>3 the Harley Davidson that you observed that night?</p> <p>4 MS. ROBERTSON: Objection, vague, calls</p> <p>5 for speculation.</p> <p>6 A. Just from the looks of it, it was pretty</p> <p>7 dusty, like it hasn't been -- like it hasn't been</p> <p>8 rode in a while. That's the only thing I remember</p> <p>9 from it. And it had three wheels.</p> <p>10 Q. (BY MR. GELFAND) Have you ever rented a</p> <p>11 motorcycle?</p> <p>12 MS. ROBERTSON: Objection, relevance.</p> <p>13 Q. (BY MR. GELFAND) Have you ever rented a</p> <p>14 motorcycle?</p> <p>15 A. Yes.</p> <p>16 Q. Like on vacation?</p> <p>17 A. Florida, every year.</p> <p>18 Q. If you recall, approximately what does it</p> <p>19 cost to rent a motorcycle per day?</p> <p>20 MS. ROBERTSON: Objection, calls for</p> <p>21 speculation.</p> <p>22 A. I'd say down there, it was \$750 deposit</p> <p>23 and then hourly, it's 200 bucks an hour.</p> <p>24 Q. (BY MR. GELFAND) Prior to the removal of</p> <p>25 the motorcycle, from Mr. Thompson's back yard, did</p> | <p style="text-align: right;">108</p> <p>1 law enforcement provide Mr. Thompson with notice or</p> <p>2 a hearing?</p> <p>3 MS. ROBERTSON: Objection, asked and</p> <p>4 answered.</p> <p>5 Q. (BY MR. GELFAND) You can answer.</p> <p>6 A. No.</p> <p>7 Q. At any time, when you interacted with</p> <p>8 Mr. Thompson -- let's back up for a second.</p> <p>9 I asked you about two times that you</p> <p>10 responded to Mr. Thompson's house and you testified</p> <p>11 about both of them, you know, within a short period</p> <p>12 of one another, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And both of those times related to this</p> <p>15 single Harley Davidson motorcycle, that you've</p> <p>16 testified about, what this lawsuit is about,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. The first time Mr. Thompson wasn't there.</p> <p>20 The second time Mr. Thompson had initiated the call</p> <p>21 reporting his bike stolen, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Have you ever interacted with</p> <p>24 Mr. Thompson, at any other time?</p> <p>25 A. No.</p> |

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28 (Pages 109 to 112)

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| <p style="text-align: right;">109</p> <p>1 Q. Have you ever responded to his house, at 2 any other time? 3 A. No. Not that I can remember. 4 Q. At any time, during your interactions with 5 Mr. Thompson, in connection with the motorcycle, did 6 you tell him anything along the lines of we are the 7 police, we can go anywhere, we can't trespass? 8 A. No. 9 Q. At any time, during your interactions with 10 Mr. Thompson, in connection with the motorcycle that 11 you've testified about, that's the subject of the 12 lawsuit, did any other law enforcement, in your 13 presence, tell Mr. Thompson anything along the lines 14 of we are the police, we can go anywhere, we can't 15 trespass? 16 A. Not to my knowledge. 17 Q. When Ms. Elmore and Mr. Mackenzie left 18 Mr. Thompson's back yard with the motorcycle, did 19 you observe how they drove it out? 20 A. Yes. 21 Q. How did they drive it out? 22 A. Elmore -- Mr. Elmore got on it and drove 23 it. And he squeezed right past the Jeep and the 24 fence. 25 Q. So I'm sorry. When you say -- so there</p> | <p style="text-align: right;">110</p> <p>1 was a Ms. Elmore and Mr. Mackenzie -- 2 A. Okay. Mackenzie. 3 Q. That's fine. But I'm saying -- I just 4 want to clarify. Was it the male person that was 5 there -- 6 A. It was the male that drove. Yes. He was 7 the one that got it started. 8 Q. And where was Ms. Elmore? 9 A. Watching. 10 Q. From where? 11 A. The back yard. 12 Q. Where were you, when Mr. Mackenzie drove 13 out of the back yard into the driveway? 14 A. I was still in the back, where I circled 15 on Exhibit 10. 16 Q. Where was Mr. Gerholdt -- 17 Officer Gerholdt? 18 A. I don't recall. He should have still been 19 in the back yard. 20 Q. So you believe he was in the back yard? 21 You just don't recall where, in the back yard, he 22 was? 23 A. Yeah. 24 Q. Okay. Did you observe Mr. Mackenzie make 25 contact with Mr. Thompson's physical property --</p> |
| <p style="text-align: right;">111</p> <p>1 A. No. 2 Q. -- while riding the motorcycle? 3 A. No. 4 Q. Did you observe Mr. Mackenzie leave the 5 premises with the motorcycle? 6 A. Yes. 7 Q. In other words, drive it onto the street 8 or wherever he went from there? 9 A. Yep. 10 Q. And then what did Ms. Elmore do? 11 A. She got into the vehicle that they drove 12 down the road, which I think was a Ford, silver in 13 color, gray in color, Ford Escape, and drove off. 14 Q. Immediately after Mr. Mackenzie left? 15 A. Well, no. They sat there in the street 16 and he said he had to go get gas. And she followed 17 him to the gas station. 18 Q. And is -- at that time, what, if anything, 19 did you and/or Officer Gerholdt do? 20 A. I just said it was going to be a cold ride 21 and that was it. 22 Q. And who did you say that to? 23 A. Mackenzie. 24 Q. What did he say? 25 A. Nothing. Just laughed.</p> | <p style="text-align: right;">112</p> <p>1 Q. Are you aware, as you sit here today, that 2 Ms. Elmore is not actually Mr. Rench's daughter? 3 A. I did not know that. 4 Q. Are you aware, as you sit here today, that 5 Mr. Mackenzie is not actually related to Mr. Rench? 6 A. I did not know that. 7 Q. Does that surprise you? 8 A. With the story they told, no. 9 Q. Why not? 10 A. I don't know. I mean, if you go -- if you 11 go all the way to make the police believe that your 12 father was handicapped and his three-wheel trike got 13 stolen, I would believe that they probably didn't 14 know him. And you provide falsified documents. So 15 yes. I believe -- I believe they probably don't 16 know each other. 17 Q. When Mr. Mackenzie and Ms. Elmore left on 18 the Harley Davidson, that belonged to Mr. Thompson, 19 did you consider Manchester Police Department's 20 investigation into the matter complete? 21 A. My position, yes. I felt like my 22 assistance was no longer needed. 23 Q. At that time, you had been a law 24 enforcement officer for a number of years, correct? 25 A. Yes.</p> |

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29 (Pages 113 to 116)

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| <p style="text-align: right;">113</p> <p>1 Q. As of October of 2022, had you personally</p> <p>2 conducted investigations into matters?</p> <p>3 A. No.</p> <p>4 Q. Have you ever investigated a crime?</p> <p>5 A. Yes. But not into these matters.</p> <p>6 Q. No. I'm talking about just generally.</p> <p>7 A. Yes.</p> <p>8 Q. Approximately how many investigations have</p> <p>9 you participated in?</p> <p>10 MS. ROBERTSON: Objection, calls for</p> <p>11 speculation.</p> <p>12 A. I couldn't tell you. At least 12 or 15,</p> <p>13 within this year.</p> <p>14 Q. (BY MR. GELFAND) And prior to October</p> <p>15 2022, you had participated in a number of</p> <p>16 investigations, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Have you ever considered an investigation</p> <p>19 complete, without attempting to get both sides of</p> <p>20 the story?</p> <p>21 MS. ROBERTSON: Object to form, vague,</p> <p>22 calls for speculation.</p> <p>23 Q. (BY MR. GELFAND) You can answer.</p> <p>24 A. No. There's always two sides to a story.</p> <p>25 Q. Now, if we look back, finally, at your</p> | <p style="text-align: right;">114</p> <p>1 interrogatory responses, which is Exhibit 1. Can</p> <p>2 you pull that?</p> <p>3 MS. ROBERTSON: Justin, did you mark this?</p> <p>4 MR. GELFAND: No. Well, it's in a packet.</p> <p>5 MS. ROBERTSON: Okay.</p> <p>6 Q. (BY MR. GELFAND) You answered a number of</p> <p>7 questions -- and I can go through them one by one,</p> <p>8 but I think you'll appreciate me just summing this</p> <p>9 up, about whether you've ever been the subject of</p> <p>10 any sort of discipline, as a law enforcement</p> <p>11 officer. Do you recall that?</p> <p>12 A. Yes.</p> <p>13 Q. And your answer was no, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Is that still your answer today?</p> <p>16 A. Yes.</p> <p>17 Q. Similarly, you answered that you had never</p> <p>18 previously been a party to any lawsuit, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Is that still your answer today?</p> <p>21 A. Well --</p> <p>22 Q. Other than this lawsuit?</p> <p>23 A. -- other than this one, yes.</p> <p>24 Q. So to be clear, you've never been sued,</p> <p>25 correct?</p> |
| <p style="text-align: right;">115</p> <p>1 A. Correct.</p> <p>2 Q. Have you ever testified in a case? We'll</p> <p>3 just start there, for a second.</p> <p>4 A. Yes.</p> <p>5 Q. In court?</p> <p>6 A. Yes.</p> <p>7 Q. Was that all in connection with criminal</p> <p>8 cases that you investigated?</p> <p>9 A. Yes.</p> <p>10 Q. Have you ever testified -- in other words,</p> <p>11 putting that aside -- that's a topic that we're not</p> <p>12 going to get into -- have you ever testified in any</p> <p>13 proceeding, in court or otherwise, in connection</p> <p>14 with anything, other than a criminal case that you</p> <p>15 investigated?</p> <p>16 A. No.</p> <p>17 Q. You used the phrase in your</p> <p>18 interrogatories, keep the peace.</p> <p>19 A. Correct.</p> <p>20 Q. What does that mean to you?</p> <p>21 A. Means to make sure -- make sure the</p> <p>22 parties are not arguing and to make sure another</p> <p>23 officer goes home to their family.</p> <p>24 Q. Were you present, when Officer Gerholdt</p> <p>25 communicated with Sergeant Waters?</p> | <p style="text-align: right;">116</p> <p>1 A. I was there, when he arrived. Yes. Did I</p> <p>2 hear what they communicated? No. Because I was</p> <p>3 told to leave.</p> <p>4 Q. So I asked an imprecise question. In the</p> <p>5 first time, that you showed up, when Officer -- when</p> <p>6 Sergeant Waters wasn't there, there was a phone</p> <p>7 call?</p> <p>8 A. Correct.</p> <p>9 Q. Were you present, to hear</p> <p>10 Officer Gerholdt's --</p> <p>11 A. No.</p> <p>12 Q. -- side of that phone call?</p> <p>13 A. Nope.</p> <p>14 Q. So is it fair to say that you don't know</p> <p>15 what, if anything, was actually conveyed --</p> <p>16 A. Correct.</p> <p>17 Q. -- to Sergeant Waters?</p> <p>18 A. He makes his phone calls in his vehicle.</p> <p>19 Q. Officer Gerholdt does?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Are you friends with Officer Gerholdt?</p> <p>22 A. No.</p> <p>23 Q. Okay. Have you ever hung out socially?</p> <p>24 A. No. I don't have an issue with him. I</p> <p>25 just --</p> |

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30 (Pages 117 to 120)

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| <p style="text-align: right;">117</p> <p>1 Q. I understand.</p> <p>2 A. I worked with him briefly.</p> <p>3 Q. Is he still at the department?</p> <p>4 A. Yes.</p> <p>5 Q. Did you work together frequently, at this</p> <p>6 time?</p> <p>7 A. Who was -- I was under Waters, until I got</p> <p>8 transferred. I don't know how many -- it wasn't</p> <p>9 long. I think four or five months.</p> <p>10 Q. In response to Interrogatory No. 18 -- and</p> <p>11 we touched on this and I think I know your answer,</p> <p>12 but just to be clear, you wrote that Ms. Elmore and</p> <p>13 Mr. Mackenzie produced the key to the motorcycle,</p> <p>14 which started it.</p> <p>15 A. Yes.</p> <p>16 Q. And I'm not critical of what you said</p> <p>17 here. I don't really care. I just want to get --</p> <p>18 is it more accurate to say that they claimed they</p> <p>19 had a key?</p> <p>20 A. I -- I -- I'm sticking to -- I could have</p> <p>21 swore he pulled a key out of his pocket and he got</p> <p>22 on top of the motorcycle and he put it in and that's</p> <p>23 what he started it with.</p> <p>24 Q. And that's --</p> <p>25 A. Because I heard keys -- I heard keys</p> | <p style="text-align: right;">118</p> <p>1 jingling that night. I remember that. But I was</p> <p>2 still looking up at the house, as they were doing</p> <p>3 what they were doing with the motorcycle.</p> <p>4 Q. And that's what you assumed?</p> <p>5 A. So I can assume -- yes. He started it</p> <p>6 with a key.</p> <p>7 Q. This said that a record search was</p> <p>8 consistent with statements made by Ms. Elmore and</p> <p>9 Mr. Mackenzie.</p> <p>10 A. Correct.</p> <p>11 Q. What was the record search?</p> <p>12 A. The VIN.</p> <p>13 Q. Describe in detail, if you would, what you</p> <p>14 mean by that. What search did you conduct?</p> <p>15 A. The vehicle identification, which is the</p> <p>16 VIN, was conducted on the vehicle -- or on the</p> <p>17 motorcycle, which came back to being Nathan Rench's</p> <p>18 motorcycle.</p> <p>19 Q. When you saying being his motorcycle --</p> <p>20 A. It was still registered in his name.</p> <p>21 Q. Did you do any investigation, to determine</p> <p>22 why the registration hadn't been changed?</p> <p>23 A. No.</p> <p>24 MS. ROBERTSON: Objection. Objection,</p> <p>25 assumes facts not in evidence.</p> |
| <p style="text-align: right;">119</p> <p>1 Q. (BY MR. GELFAND) So bottom line, I</p> <p>2 understand there's some things that -- that we</p> <p>3 disagree with, but I think there's a couple of</p> <p>4 things we agree with. And I want to make sure that</p> <p>5 that's accurate.</p> <p>6 We agree that you entered Mr. Thompson's</p> <p>7 back yard that night, correct?</p> <p>8 A. Yes.</p> <p>9 Q. We agree that you did so without a search</p> <p>10 warrant, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And we agree that you did so under the</p> <p>13 community caretaking exception, that you described</p> <p>14 in your interrogatories, correct?</p> <p>15 A. Yes.</p> <p>16 Q. We agree that Mr. Thompson's Harley</p> <p>17 Davidson was parked in the gated enclosure, when you</p> <p>18 arrived on the scene, correct?</p> <p>19 A. Open gated enclosure. Yes.</p> <p>20 Q. When you say open, meaning you're claiming</p> <p>21 the gate to the enclosure was open?</p> <p>22 A. Yes. It was, because that's the only way</p> <p>23 we could see that -- that Officer Gerholdt saw the</p> <p>24 motorcycle.</p> <p>25 Q. Sitting here today, do you have any idea</p> | <p style="text-align: right;">120</p> <p>1 who opened it?</p> <p>2 A. That, I don't know.</p> <p>3 Q. And Officer Gerholdt was already present,</p> <p>4 when you arrived, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And when you left, the motorcycle was no</p> <p>7 longer parked on the premises, because Mr. Mackenzie</p> <p>8 rode off with it, correct?</p> <p>9 A. Yes.</p> <p>10 MR. GELFAND: I don't believe I have any</p> <p>11 further questions. Give me one minute, if you</p> <p>12 would, with my client, just off the record.</p> <p>13 MS. ROBERTSON: Yeah. Let's take a quick</p> <p>14 break.</p> <p>15 MR. GELFAND: That sounds great.</p> <p>16 (WHEREIN, a brief break was taken.)</p> <p>17 MR. GELFAND: I have no further questions</p> <p>18 for you, Officer Cockrell. Thank you for your time.</p> <p>19 Your lawyer may have some questions for you and now,</p> <p>20 it's her turn.</p> <p>21 THE WITNESS: Okay.</p> <p>22 MS. ROBERTSON: Briefly, I do. Just a</p> <p>23 few.</p> <p>24 EXAMINATION</p> <p>25 QUESTIONS BY MS. ROBERTSON:</p> |

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| <p style="text-align: right;">121</p> <p>1 Q. Officer Cockrell, on October 22nd of 2022, 2 when you responded to Mr. Thompson's residence, you 3 made contact with Amara Elmore and Steven Mackenzie? 4 A. Yes. 5 Q. And they told you some things? 6 A. Yes. 7 Q. Did you believe what they told you? 8 A. I did. I did. I did believe their story. 9 I mean -- 10 Q. Why? 11 A. I don't know. It's -- the story they told 12 is that their dad was handicapped, that he'd been in 13 the hospital and he loves riding, but the motorcycle 14 was missing. And that the friend, which was 15 Mr. Thomas (sic), had had it for six months. 16 And then after we go over everything and 17 then go back to the back yard, I look at the 18 motorcycle. I figured that the story was true, 19 because to me, most people that ride trikes are 20 usually women or older people, that are overweight 21 or just have a problem with riding motorcycles, in 22 general, that are two wheels. So I believed -- I 23 believed the story that they told. 24 Q. A few more questions. Is there anything 25 else Amara Elmore or Steven Mackenzie said, that</p> | <p style="text-align: right;">122</p> <p>1 evening, that we haven't discussed? 2 A. I'd say yes. The one thing that wasn't 3 brought up, but I don't know if Officer Gerholdt 4 would or not, is I remember is that when we were 5 there, after he ran the VIN and it came back still 6 registered to -- I can't think of his name now. 7 Q. Mr. Rench? 8 A. Yeah. Mr. Rench. They told us -- they 9 were like we could show you where the bike is. You 10 can see it from over here. If you want us to go 11 back there, we can show you. If not, we can have a 12 tow truck respond, to have the bike removed. 13 Q. Did they -- did they indicate whether that 14 would have been like a commercial tow truck or 15 something else? 16 A. They did not. They just said they'd have 17 a tow truck respond. And I guess the guy -- he said 18 he used to work for a tow company. So he knows a 19 lot -- a lot of people. 20 Q. Okay. And Mr. Gelfand showed you a few 21 pictures of Mr. Thompson's residence and -- do you 22 have Exhibit 8? 23 A. Somewhere. Exhibit 9, Exhibit 8. 24 Q. And on Exhibit 8, that's Mr. Thompson's -- 25 or that's the residence you responded to, on October</p> |
| <p style="text-align: right;">123</p> <p>1 22nd, 2022, correct? 2 A. Yes. 3 Q. Is there a driveway depicted in that 4 photograph? 5 A. Yes. 6 Q. And is there then a vehicle in the 7 driveway? 8 A. Yes. 9 Q. Okay. Now, we can't see, from the 10 photograph, what's in front of that vehicle, which 11 is kind of -- would you agree that looks like a 12 Jeep? 13 A. Yes. 14 Q. And you would agree we can't quite see 15 what's in front of it, from this photograph? 16 A. Yes. 17 Q. Okay. But you have been there, correct? 18 A. Yes. 19 Q. And do you know what's in front of the 20 vehicle? 21 A. Yes. 22 Q. Okay. What's in front of it? 23 A. There's a fence that leads to the back 24 yard, where a garage is. 25 Q. Is there a gate in front of where that</p> | <p style="text-align: right;">124</p> <p>1 vehicle is? 2 A. Yes. 3 Q. And when you -- when you arrived, was the 4 gate open? 5 A. Yes. 6 Q. Did you open it? 7 A. No. 8 Q. Did anyone in your presence open it? 9 A. No. 10 Q. Is -- does -- Mr. Thompson's driveway is 11 paved? Yes? 12 A. Yes. 13 Q. Does that paving extend through the gate 14 into the back yard? 15 A. I would say yes, because it extends 16 through and then goes around, to where it meets up 17 at the garage. 18 Q. Okay. And looking at Exhibit No. 8, I 19 guess our left side of the house, as we look at 20 this, there's -- to the right of the Jeep, there's a 21 window? 22 A. Uh-huh. 23 Q. Do you see what I'm talking about? 24 A. Uh-huh. 25 Q. Is that a yes?</p> |

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| <p style="text-align: right;">125</p> <p>1 A. Yes.</p> <p>2 Q. Do you -- is that the garage you were</p> <p>3 referring to?</p> <p>4 A. I think so. Or if there -- I don't know</p> <p>5 if that -- it was a weird design back there. I'm</p> <p>6 pretty -- I think there was a garage, that was right</p> <p>7 behind the house, because I know there was a patio.</p> <p>8 But I don't know what that is. I don't know if</p> <p>9 that's just a side piece to the house or what. But</p> <p>10 there could have been a little one-car garage in the</p> <p>11 back.</p> <p>12 Q. Could you look at Exhibit No. 10? And do</p> <p>13 you see, in Exhibit No. 10, where the -- where the</p> <p>14 gate is?</p> <p>15 A. Yeah.</p> <p>16 Q. Okay. Where is the gate?</p> <p>17 A. The gate is to the -- in the left corner.</p> <p>18 Q. And could you mark that, with a star, for</p> <p>19 me and initial it?</p> <p>20 A. (Complying.)</p> <p>21 Q. And so when we were just talking about the</p> <p>22 driveway, in Exhibit No. 8 --</p> <p>23 A. Uh-huh.</p> <p>24 Q. -- where you have just marked a star, is</p> <p>25 that where that driveway continues, in Exhibit No.</p> | <p style="text-align: right;">126</p> <p>1 10?</p> <p>2 A. Yes.</p> <p>3 Q. And when -- when we've been using the term</p> <p>4 back yard, throughout your deposition, is -- is the</p> <p>5 star, that we just discussed, encompassed in what</p> <p>6 you've referred to as the back yard?</p> <p>7 A. Yes.</p> <p>8 Q. Is it your understanding that</p> <p>9 Officer Gerholdt ran the vehicle identification</p> <p>10 number, for the motorcycle through dispatch?</p> <p>11 A. Yes.</p> <p>12 Q. And when -- in your training and</p> <p>13 experience, as a law enforcement officer, in your</p> <p>14 normal course of dealings, what does that mean?</p> <p>15 A. That means when he does that, it brings up</p> <p>16 a record through DOR. It will tell you who the</p> <p>17 actual owner is and when the last time it was</p> <p>18 registered or reregistered.</p> <p>19 Q. And DOR means the Department of Revenue?</p> <p>20 A. Yes.</p> <p>21 MS. ROBERTSON: I don't think I have any</p> <p>22 more questions.</p> <p>23 FURTHER EXAMINATION</p> <p>24 QUESTIONS BY MR. GELFAND:</p> <p>25 Q. I have a few follow-ups, based on what you</p> |
| <p style="text-align: right;">127</p> <p>1 were just asked.</p> <p>2 You were asked, a few minutes ago, by your</p> <p>3 lawyer, whether you believed the story that</p> <p>4 Ms. Elmore and Mr. Mackenzie provided to law</p> <p>5 enforcement; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. At the time, that you were there, on</p> <p>8 October 22nd of 2022, before the bike was removed</p> <p>9 from the premises, did you believe that it was your</p> <p>10 role, as law enforcement, to determine which side to</p> <p>11 believe, when property is in dispute?</p> <p>12 A. At that time, it wasn't my -- at that</p> <p>13 time, I did not.</p> <p>14 Q. Would you agree with me that based on the</p> <p>15 policies that we reviewed, it's the role of a Court</p> <p>16 to decide that, not the role of law enforcement?</p> <p>17 MS. ROBERTSON: Objection, calls for a</p> <p>18 legal conclusion.</p> <p>19 A. I agree.</p> <p>20 Q. (BY MR. GELFAND) Now, you were asked a</p> <p>21 number of questions about a -- the possibility of a</p> <p>22 -- or the offer of a tow company coming.</p> <p>23 A. Uh-huh.</p> <p>24 Q. Throughout the entire time that you dealt</p> <p>25 with this motorcycle and interacted with the people</p> | <p style="text-align: right;">128</p> <p>1 that you've testified about today --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- was there ever a tow company involved?</p> <p>4 A. No.</p> <p>5 Q. Was there ever a tow truck involved?</p> <p>6 A. No.</p> <p>7 Q. So not withstanding statements by</p> <p>8 Mr. Mackenzie -- when you say that guy said he used</p> <p>9 to work for a tow company, are you referring to</p> <p>10 Mr. Mackenzie?</p> <p>11 A. Mr. Mackenzie. Yes.</p> <p>12 Q. So -- and to be clear, you don't even know</p> <p>13 whether that's true, right?</p> <p>14 A. No.</p> <p>15 Q. Fair to say Mr. Mackenzie has some honesty</p> <p>16 issues?</p> <p>17 A. Agree.</p> <p>18 Q. So regardless of whether that's true or</p> <p>19 untrue, that Mr. Mackenzie has friends in the tow</p> <p>20 business or whatever it was he was trying to</p> <p>21 suggest, the bottom line is, he just rode the bike</p> <p>22 off, right?</p> <p>23 A. Yes. After an investigation was done. A</p> <p>24 minor investigation was done on it.</p> <p>25 Q. By law enforcement?</p> |

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| <p style="text-align: right;">129</p> <p>1 A. By law enforcement. Correct.</p> <p>2 Q. And the two people present, before that</p> <p>3 happened, at the scene for law enforcement, were you</p> <p>4 and Officer Gerholdt, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Now, finally, you were shown</p> <p>7 Exhibit 8, the picture, and asked some questions</p> <p>8 about the driveway, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you were asked and I believe you</p> <p>11 testified, that in front of the Jeep, in that photo,</p> <p>12 the Google Maps photo -- let's be clear, for a</p> <p>13 second.</p> <p>14 Exhibit 8 is a Google Maps photo on a date</p> <p>15 that's different from the date you showed up,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. And so it generally depicts the property,</p> <p>19 but it doesn't necessarily depict where certain</p> <p>20 vehicles and trash cans and other things were, on</p> <p>21 that night, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. But the bottom line is --</p> <p>24 A. Well, that Jeep was parked there, like</p> <p>25 that, that night.</p> | <p style="text-align: right;">130</p> <p>1 Q. Okay. Meaning just coincidentally --</p> <p>2 A. Yeah.</p> <p>3 Q. -- even though it's a different date,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. And you see the date on the top left</p> <p>7 corner --</p> <p>8 A. Yep.</p> <p>9 Q. -- of the picture?</p> <p>10 A. June of '23.</p> <p>11 Q. Okay. Now, the bottom line, though, is</p> <p>12 what really -- if I understood the question and your</p> <p>13 answer correctly, what you're really saying is that</p> <p>14 when you arrived, the entire back yard is enclosed,</p> <p>15 but there's a gate that was open, before you got</p> <p>16 there, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And you testified that you have no idea</p> <p>19 who opened it, how it was opened, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you would agree with me that one of</p> <p>22 the possibilities is that Officer Gerholdt opened</p> <p>23 it?</p> <p>24 MS. ROBERTSON: Objection, calls for</p> <p>25 speculation.</p> |
| <p style="text-align: right;">131</p> <p>1 A. I disagree on that.</p> <p>2 Q. (BY MR. GELFAND) How do you know that, if</p> <p>3 you weren't there the whole time?</p> <p>4 A. I was -- because the first -- I was there</p> <p>5 probably two minutes behind. And he was -- he was</p> <p>6 getting the story before anything. So by the time</p> <p>7 he got -- by the time I arrived on scene, he was</p> <p>8 still getting the story. So he didn't go anywhere.</p> <p>9 And he was right by his vehicle.</p> <p>10 Q. Do you know whether Ms. Elmore opened the</p> <p>11 gate?</p> <p>12 A. I do not.</p> <p>13 Q. Do you know whether Mr. Mackenzie opened</p> <p>14 the gate?</p> <p>15 A. I do not.</p> <p>16 Q. Would you agree with me that that's a</p> <p>17 possibility?</p> <p>18 A. Possibility. Yeah.</p> <p>19 Q. These are people that you now know are</p> <p>20 willing to do some pretty crazy stuff, right?</p> <p>21 A. True.</p> <p>22 Q. Do you believe that as a law enforcement</p> <p>23 officer, you can enter a person's gated enclosure,</p> <p>24 if the gate is open?</p> <p>25 MS. ROBERTSON: Object to form, vague,</p> | <p style="text-align: right;">132</p> <p>1 calls for speculation.</p> <p>2 A. Yes.</p> <p>3 Q. (BY MR. GELFAND) So just to be clear, you</p> <p>4 believe that if you're driving down a street --</p> <p>5 A. Not just -- go ahead.</p> <p>6 Q. You're driving down a street and you see</p> <p>7 the equivalent of Mr. Thompson's driveway and house</p> <p>8 and the gate is open, you can just walk back into</p> <p>9 the back yard?</p> <p>10 MS. ROBERTSON: Same objection.</p> <p>11 Q. (BY MR. GELFAND) Is that your testimony?</p> <p>12 A. Yes.</p> <p>13 Q. Without a warrant? Is that your</p> <p>14 testimony?</p> <p>15 MS. ROBERTSON: Same objection.</p> <p>16 A. Yes.</p> <p>17 Q. (BY MR. GELFAND) What's your</p> <p>18 understanding of what gives you the right to go into</p> <p>19 someone's back yard, just because the gate is open?</p> <p>20 A. It would either be a call of service or an</p> <p>21 investigative stop. If I'm patrolling at night and</p> <p>22 I see somebody's gate open, that's usually never</p> <p>23 open, I'm going to go back there, to see if somebody</p> <p>24 -- if they left it open or if something's going on</p> <p>25 back there, that shouldn't be going on.</p> |

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| <p style="text-align: right;">133</p> <p>1 Q. Had you driven by this house before?</p> <p>2 A. Never.</p> <p>3 Q. So do you know whether the gate was</p> <p>4 normally open or closed?</p> <p>5 A. No.</p> <p>6 Q. Do you understand, Officer, that you can't</p> <p>7 just walk into someone's back yard?</p> <p>8 MS. ROBERTSON: Objection, argumentative,</p> <p>9 calls for a legal conclusion.</p> <p>10 A. Repeat.</p> <p>11 Q. (BY MR. GELFAND) Do you understand,</p> <p>12 Officer, that you can't just walk into someone's</p> <p>13 back yard?</p> <p>14 MS. ROBERTSON: I'm going to object to</p> <p>15 form, vague, calls for a legal conclusion,</p> <p>16 argumentative, assumes facts not in evidence. You</p> <p>17 can answer if you know.</p> <p>18 A. I disagree with you on that.</p> <p>19 MR. GELFAND: I have no further questions.</p> <p>20 Thank you.</p> <p>21 FURTHER EXAMINATION</p> <p>22 QUESTIONS BY MS. ROBERTSON:</p> <p>23 Q. I have one -- one -- one question.</p> <p>24 Officer Cockrell, in your training and experience,</p> <p>25 as a law enforcement officer, do criminals usually</p> | <p style="text-align: right;">134</p> <p>1 call the police, to come watch, before they do</p> <p>2 something like steal a vehicle?</p> <p>3 A. They -- no.</p> <p>4 MS. ROBERTSON: No further questions.</p> <p>5 MR. GELFAND: I can't resist.</p> <p>6 FURTHER EXAMINATION</p> <p>7 QUESTIONS BY MR. GELFAND:</p> <p>8 Q. In your experience, as a law enforcement</p> <p>9 officer, do police officers generally investigate</p> <p>10 all of the facts, before jumping to conclusions?</p> <p>11 MS. ROBERTSON: Object to -- object to</p> <p>12 form, vague, assumes facts not in evidence,</p> <p>13 speculation.</p> <p>14 A. Most officers.</p> <p>15 Q. (BY MR. GELFAND) Is that what happened</p> <p>16 here?</p> <p>17 MS. ROBERTSON: Same objection.</p> <p>18 Q. (BY MR. GELFAND) You can answer the</p> <p>19 question. You know the answer to this question.</p> <p>20 A. I don't know what happened.</p> <p>21 Q. You were there.</p> <p>22 A. Yeah. I was there and with the facts and</p> <p>23 information that was given, I think the right</p> <p>24 decision was made, at that time.</p> <p>25 Q. Even as you sit here today --</p> |
| <p style="text-align: right;">135</p> <p>1 A. At that time.</p> <p>2 Q. -- no regrets?</p> <p>3 A. I don't have any regrets. My name's not</p> <p>4 even on the report. I don't have no regrets.</p> <p>5 Q. I was going to ask you about that. Why is</p> <p>6 your name nowhere on the report, when you're one of</p> <p>7 two people who were there?</p> <p>8 MS. ROBERTSON: Objection, calls for</p> <p>9 speculation.</p> <p>10 Q. (BY MR. GELFAND) You can answer that</p> <p>11 question.</p> <p>12 A. Because I had nothing to do with the</p> <p>13 decisions that was made. Do you think it would be</p> <p>14 fair to put your name on a report, if you were just</p> <p>15 there for safety reasons? Now, if I made a decision</p> <p>16 on something or did something, I agree that I should</p> <p>17 be in the report and do a supplement.</p> <p>18 Q. Well, let's talk about that, for a second.</p> <p>19 Can you please go to the report? I think it's</p> <p>20 Exhibit 4. Did I get the exhibit number correctly?</p> <p>21 A. Yeah.</p> <p>22 Q. Are you familiar with the general form of</p> <p>23 Manchester Police Department Investigative, slash,</p> <p>24 Offense Reports?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">136</p> <p>1 Q. On the front page, there's a list of</p> <p>2 officers, including their names, identification</p> <p>3 numbers, and roles, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Would you agree that this lists various</p> <p>6 officers down to Al Gerholdt?</p> <p>7 A. Yes.</p> <p>8 Q. And it includes, when somebody arrives on</p> <p>9 scene, when somebody departs the scene, so on and so</p> <p>10 forth, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Why are you nowhere listed on there?</p> <p>13 MS. ROBERTSON: Objection, calls for</p> <p>14 speculation.</p> <p>15 A. Because I was assist officer.</p> <p>16 Q. (BY MR. GELFAND) Based on your training</p> <p>17 and experience, as a Manchester Police Department</p> <p>18 officer, is it your testimony that when an officer</p> <p>19 is physically present, they should not be in that</p> <p>20 part?</p> <p>21 MS. ROBERTSON: Objection, vague, calls</p> <p>22 for speculation.</p> <p>23 A. At times they are needed, they should be</p> <p>24 entered in. But when they were just standing by, to</p> <p>25 keep the peace, no.</p> |

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| <p style="text-align: right;">137</p> <p>1 Q. (BY MR. GELFAND) And finally, when you 2 just used the phrase -- and I think I asked you this 3 before, but I'll just ask you again. When you used 4 the phrase standing by and keeping the peace, that's 5 all in connection with what you call the community 6 caretaker exception, correct? 7 A. Correct. 8 MR. GELFAND: Thank you. I have no 9 further questions. 10 MS. ROBERTSON: Nothing further. 11 MR. GELFAND: Okay. Officer -- 12 MS. ROBERTSON: We'll review and sign. 13 (WHEREIN, the deposition was concluded.) 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p style="text-align: right;">138</p> <p>1 CERTIFICATE OF REPORTER 2 STATE OF MISSOURI)) ss. 3 CITY OF ST. LOUIS) 4 I, Sheila Field, do hereby certify that 5 pursuant to Notice, there came before me at 6 Reichardt Noce & Young, 12444 Powerscourt Drive, 7 Suite 160, in the City of St. Louis, State of 8 Missouri, 9 JOSHUA COCKRELL, 10 who was by me first duly sworn to tell the whole 11 truth of his knowledge touching the matter in 12 controversy aforesaid; that the witness was examined 13 on the day and place in that first aforesaid, and 14 the examination was taken by voice shorthand and 15 later reduced to typewriting; that the signature of 16 the deponent was reserved by agreement of counsel, 17 and the deposition is herewith returned. 18 IN WITNESS WHEREOF, I have hereunto set my hand 19 and seal this 17th day of December, 2023. 20 21 22 23 /s/ Sheila Field 24 Sheila Field, CCR 25</p> |
| <p style="text-align: right;">139</p> <p>1 FIELD REPORTING SERVICES 2 P.O. Box 252092 St. Louis, MO 63125 3 314-461-2122 Federal ID No. 92-1238320 4 ----- 5 December 17, 2023 6 Reichardt Noce & Young 7 12444 Powerscourt Drive, Suite 160 8 St. Louis, Missouri 63131 9 Attn: Catherine Robertson 10 11 In re: Raymond Thompson v. Joshua Cockrell, et al 12 13 Dear Ms. Robertson: 14 15 Please find enclosed your copy of the deposition of 16 Joshua Cockrell, taken in the above-styled cause on 17 December 4, 2023. Also enclosed is the original 18 signature page and errata sheet. 19 Please have the witness read your copy of the 20 transcript, indicate any changes and/or corrections 21 desired on the errata sheet, and sign the signature 22 page before a Notary Public. 23 24 Please return the errata sheets and notarized 25 signature to Mr. Gelfand, for filing, prior to the trial date. If you have any questions or concerns, please do not hesitate to contact me. Thank you in advance for your cooperation. Sincerely, Sheila Field CCR No. 1226 CC: Justin Gelfand</p> | <p style="text-align: right;">140</p> <p>1 SIGNATURE PAGE OF JOSHUA COCKRELL 2 UNITED STATES DISTRICT COURT 3 EASTERN DISTRICT OF MISSOURI 4 EASTERN DIVISION 5 RAYMOND THOMPSON,)) 6 Plaintiff,)) 7 v.) Cause No.: 4:23-cv-133-SRW) 8 JOSHUA COCKRELL, et al,)) 9 Defendant.) 10 11 I, JOSHUA COCKRELL, do hereby certify that 12 I have read the foregoing deposition given by me 13 before Sheila Field, Certified Court Reporter in and 14 for the State of Missouri on December 4, 2023. 15 16 17 18 JOSHUA COCKRELL 19 20 Subscribed and sworn to before me this 21 day of _____, 20____. 22 My commission expires_____. 23 24 25 Notary Public</p> |

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| <p style="text-align: right;">141</p> <p>1 JOSHUA COCKRELL 2 ERRATA 3 In re: RAYMOND THOMPSON v. JOSHUA COCKRELL, et al 4 Upon reading the deposition and before subscribing 5 thereto, the deponent requested the following: 6 Page Line Should Read: 7 Reason for Change: 8 Page Line Should Read: 9 Reason for Change: 10 Page Line Should Read: 11 Reason for Change: 12 Page Line Should Read: 13 Reason for Change: 14 Page Line Should Read: 15 Reason for Change: 16 Page Line Should Read: 17 Reason for Change: 18 Page Line Should Read: 19 Reason for Change: 20 Page Line Should Read: 21 Reason for Change: 22 Page Line Should Read: 23 Reason for Change: 24 _____ 25 Signature of Witness</p> | |
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